

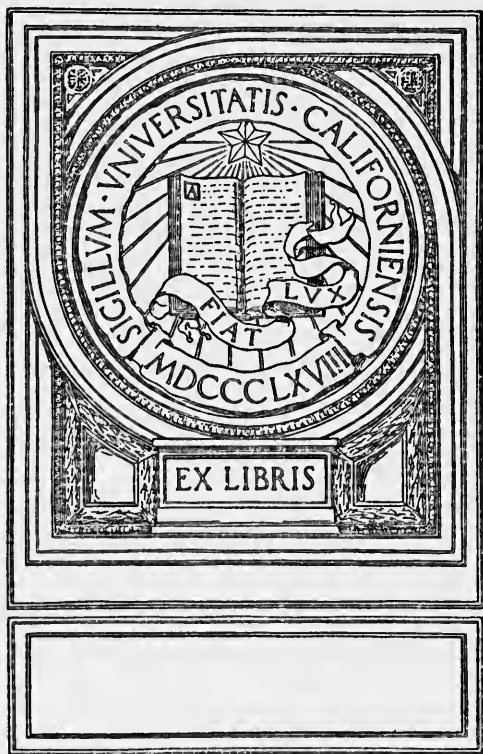
IOWA SOCIAL HISTORY SERIES

POOR RELIEF LEGISLATION
IN IOWA

—
GILLIN



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IOWA SOCIAL HISTORY SERIES
EDITED BY BENJAMIN F. SHAMBAUGH

POOR RELIEF LEGISLATION IN IOWA

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HISTORY OF
POOR RELIEF LEGISLATION
IN IOWA

BY
JOHN L. GILLIN

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EDITOR'S INTRODUCTION

POVERTY is such a persistent and perplexing social problem and its amelioration through government action so difficult that it is not surprising to learn that poor relief legislation and administration in Iowa have not been altogether successful. There is need for new legislation and more scientific methods of administration. But changes in the system should be made in the light of experience both in Iowa and in other jurisdictions.

By tracing in this volume the history of poor relief legislation in Iowa, Dr. Gillin has prepared the way for that intensive study of the actual workings of the system which must inevitably guide changes both in the law and in its administration.

BENJ. F. SHAMBAUGH

OFFICE OF THE SUPERINTENDENT AND EDITOR
THE STATE HISTORICAL SOCIETY OF IOWA
IOWA CITY IOWA

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AUTHOR'S PREFACE

THE writer's purpose in the pages which follow is to present an historical and analytical study of legislation for the relief of the poor in Iowa. Except incidentally, no attempt has been made to deal with the administrative side of public poor relief. Such a study is much needed, however, for it is only through a careful investigation of the actual working of the laws in the various local areas that the shortcomings or successes of poor relief legislation can be fully determined.

The present study has been divided into four parts, the first of which contains a general historical narrative of poor relief legislation in the States and Territories from which the early laws of Iowa were inherited, and in Iowa from 1838 to 1914. Part two, dealing with special phases of poor relief legislation in Iowa, aims to point out the part played by different public officials and the general methods employed in poor relief. In part three an effort has been made to summarize the methods employed by the State in caring for special classes of dependents, and to show to what extent the principle of State control of poor

relief has gained ground in Iowa. Finally, part four is devoted to a summary of the present system of poor relief in Iowa and to some changes which, in the belief of the writer, would bring the system of relieving poverty more closely into line with modern, scientific ideas.

That the present plan of public poor relief in Iowa, which is largely inherited without substantial change from the laws of a much earlier day, can be improved and made really serviceable is shown by the experience of Indiana with a system which until recent years was equally as primitive. Furthermore, the need of amendments is clearly shown by the fact that since the Civil War the law-makers have gradually been turning away from attempts to improve the poorhouse and outdoor systems of relief to efforts to formulate preventive measures and constructive laws for the care of children and other special classes of dependents. Perhaps it is now time that attention should again be turned to the long-established institutions, namely the poorhouse and outdoor relief, with the purpose of introducing scientific methods.

The thanks of the writer are due to Professor Benjamin F. Shambaugh, the Superintendent and Editor of The State Historical Society of Iowa, whose encouragement made possible the preparation

of this monograph; and to Dr. Dan E. Clark, the Assistant Editor of the Society, who has read both the manuscript and the proof and has made many helpful suggestions. Miss Ruth Gallaher rendered assistance in verifying the notes and references.

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PART I

GENERAL HISTORICAL NARRATIVE

I

POOR RELIEF LEGISLATION IN THE NORTH- WEST TERRITORY AND IN EARLY OHIO

The origins of the poor relief legislation of the Territory of Iowa are to be traced through the statutes of the Territories of Wisconsin and Michigan to the laws adopted by the Governor and Judges of the Northwest Territory. Hence it will be necessary to make a brief study of the system of poor relief established in the Old Northwest. Moreover, it appears that in 1842 the legislators of the Territory of Iowa turned to the statutes of Ohio and adopted, with only a few modifications, a poor relief law that had been in operation in that State for several years; and so it becomes equally necessary to examine the evolution of the scheme of poor relief which was transplanted from Ohio to Iowa.

The first mention of poor relief in the statutes of the Northwest Territory is to be found in the laws adopted by the Governor and Judges in 1790, three years after the establishment of the Territory, and it occurs only as a minor provision in an act dealing primarily with the creation of townships in the several counties. This act put the administration of poor relief into the hands of one or more overseers appointed for one year by the justices of the court of

general quarter sessions.¹ These overseers were required to take an oath of office similar to that prescribed for the constable of that day. They were merely assistants to the justices of the peace in the administration of poor relief, it being their business to report to the justices any persons needing relief and to look into any case brought to the attention of the justice and report back to him. Thus the central figure in the administration of relief was the justice of the peace: relief was a function of the court.²

The act of 1790 was superseded five years later by a law which was passed on June 19, 1795, and went into effect on October 1st. It was a lengthy measure of thirty-two sections, adopted from the statutes of Pennsylvania. It differed from the former law by making the justices of the peace merely the authorities to appoint the overseers of the poor in each township and to enforce the orders of the overseers. The latter now became the real administrators of poor relief. They, not the justices, levied the tax. They handed to the justices the names of those from whom their successors were to be appointed. They had the right to provide by contract for the care of any poor person, and the authority to expend the money raised by taxes levied by themselves in providing places where the poor could work on stocks of hemp, flax, thread, and other materials to pay for their support. It was they who apprenticed the poor children of the township. They were declared to be a body politic and corporate, and were authorized to

receive grants and bequests for the use of the poor.

This law contained detailed regulations concerning legal settlement for relief purposes. It provided for the punishment of anyone who should bring into the township any person who might become chargeable to the relief agencies, and for the removal of all paupers who had no legal settlement in the township. It prescribed rules concerning the liability of individuals for the support of their indigent relatives, and made provision for the seizure and custody of the property of persons who deserted their wives and children. In a word, this act, which was a slightly modified copy of the laws of Elizabeth, passed about two centuries earlier, provided a fairly complete system of poor relief.³

On December 19, 1799, a brief supplementary act was passed which modified the law of 1795 in only two particulars.⁴ It provided for the farming out of the care of the poor to the lowest bidder as the sole method of relief, and transferred to the county commissioners the duties previously performed in respect to poor relief by the justices of the county court of quarter sessions.

For six years these provisions stood unchanged, until on February 22, 1805, the Third General Assembly of the new State of Ohio enacted a law chiefly for the purpose of making the previous laws on the subject conform to an act providing for the incorporation of townships.⁵ This act followed much the same lines as the law of 1795, but was altogether simpler in its provisions, centering the ultimate au-

thority for the relief of the poor in the township trustees rather than in the county commissioners. While overseers of the poor were in immediate charge of the paupers in their respective townships, they acted under the direction of the township trustees.

An act passed in 1808 furthered the centralization of the administration of poor relief in the township authorities by putting into the hands of the trustees, rather than of the electors, the power to levy taxes "whenever it may be found necessary". This act also provided for the compensation of the overseers.⁶

Two years later, on February 19, 1810, an act was passed which codified the laws of Ohio relating to the relief of the poor, adding no new sections but eliminating the provision of the previous law which related to bequests for the benefit of the poor.⁷

On February 10, 1816, a statute was enacted which modified the existing laws on the relief of the poor in their homes in a few particulars. It added the provision that in cases of necessity the overseers might give aid without securing an order from the township trustees. It omitted the former provision that notice to depart must be given to any persons coming into the township within five months after their coming, in order to prevent them from gaining a legal settlement. A new clause gave to any guardian or parent whose child was bound out by the overseers and who felt aggrieved by such action, the right of appealing to the court of common pleas. The law also put definitely and completely into the hands of

the township trustees the power to levy the poor tax. In short, it only carried further the tendency to centralize the administration of poor relief in the hands of the township trustees and their subordinates, the overseers of the poor.⁸

It was in this same year, however, and but a fortnight later, on February 26, 1816, that a law was passed which was evidently intended to change the whole method of poor relief.⁹ The change aimed to provide for the care of the poor entirely within a poorhouse. For about eleven years this method was tried; but when it failed to meet the approbation of the public the mixed system of having both outdoor and indoor relief was settled upon as the policy of the State.¹⁰ Of the legislation concerning relief in a poorhouse more will be said later.

In spite of the avowed intention of changing the method of relief, the old laws continued upon the statute books of Ohio, for the purpose of providing for those counties and townships which did not erect poorhouses pursuant to the provisions of the new law. Moreover, the laws relating to the temporary relief of the poor in their homes and to the farming out of the care of the poor in counties having no poorhouses were not tampered with during the period from 1816 to 1829 when Ohio was trying the experiment of having each county or township build a poorhouse and care for its poor in that way. On February 12, 1829, the law of 1816 was amended by making the time of residence necessary to gain a legal settlement for purposes of poor relief three years

instead of one, and by providing that no black or mulatto could ever gain a legal settlement.¹¹ On March 14, 1831, however, an act was passed which changed the time necessary for securing a settlement from three years back to one year — although three years remained the period of continuous residence in a place required to gain a legal settlement after once being warned to depart.¹²

This law frankly recognized the fact that the plan to have all the poor cared for in poorhouses had failed of realization. Many of the counties and townships had not built poorhouses. Accordingly, since the provision of the law which permitted townships to build poorhouses in counties having none had been repealed, the new law explicitly permitted that the care of the poor in any township of a county not having a poorhouse might be farmed out, but that no contract of this kind should be made for more than a year. This method was also open to a township in a county having a poorhouse in case any poor person had been rejected by the board of directors of the poorhouse. This act also provided for the temporary care of casual paupers who had no legal settlement, without all the complicated processes prescribed by previous acts.

Ohio had no specific provision for poorhouses until February 26, 1816, although in the law adopted by the Governor and Judges of the Northwest Territory on June 19, 1795, there was a section which provided that the overseers of the poor in a township, with the approbation of any two justices of the peace of the

county, could levy a tax "for the support of the poor; to be employed in providing proper houses and places, and a convenient stock of hemp, flax, thread and other ware and stuff, for setting to work such poor persons, as apply for relief, and are capable of working".¹³ Evidently this law contemplated a kind of workhouse or poorhouse. There is no evidence, however, that this plan was actually followed to any considerable extent.

The law of 1816 was a very comprehensive act but its importance in this connection lies in the fact that the first five sections served as the model for the poorhouse law adopted fourteen years later by the Territory of Michigan; and the Michigan statute, in turn, had many features in common with the first act adopted by the Territory of Wisconsin — an act which was almost literally adopted as the first poor law of the Territory of Iowa. Moreover, it was the Michigan law of 1830 which was in force when the Iowa country came under the jurisdiction of the Territory of Michigan in 1834.

The chief feature of the Ohio law of 1816 was the authority given to the county commissioners to erect and establish poorhouses whenever they considered such institutions necessary or advantageous. They had power to buy land and levy taxes for that specific purpose. The direct management of the poorhouses thus established was placed in the hands of a board of seven directors appointed by the county commissioners, which board was declared to be a body politic and corporate with all the powers of such a body.

It appointed a superintendent to reside in or near the poorhouse and to have immediate management under the regulations laid down by the board of directors. The law contained many of the features now to be found in the laws relating to the management of poorhouses, such as forbidding the superintendent to admit any one to the poorhouse without an order from the proper authorities, and requiring that he should keep a book in which the names of all persons admitted were to be recorded. The directors were to see that the poorhouse was visited at least once a month by a committee from their body. Each year the board was to make a report to the county commissioners concerning the condition of the institution.

Moreover, provision was made for the establishment of township poorhouses in such counties as had established no county poorhouses under this act, provided a majority of the legal voters of the township favored such procedure. In such cases, if the county should afterwards build a county poorhouse, the township in question would not be liable for any of the necessary expense either of building or supporting the county institution — a provision so framed that every inducement was put upon the county to build a poorhouse. In case the township built the poorhouse, it was to be under the control of a board of three directors, who were to be elected by the voters of the township and make their reports to the township trustees. They were to appoint a superintendent of the poorhouse who was to proceed in the same manner as the superintendent of the county

poorhouse. Finally, this act released the county and township overseers of the poor of so much of their duties as related to the care of the poor in any county or township where poorhouses had been established as contemplated by this law. Manifestly the aim of the law was to do away ultimately with all relief of the poor outside of the poorhouse.¹⁴

For over ten years the law relating to the relief of the poor in poorhouses was unchanged. On January 28, 1827, however, an act was passed which changed the number of directors of county poorhouses from seven to three, added the requirement of an oath of office for these officials, and empowered the county commissioners to fill any vacancies in the board of directors.¹⁵ It gave the directors power to bind out as apprentices all poor children in the poorhouse, a power which under the system of farming out the poor was in the hands of the township trustees or of the township overseers of the poor. Moreover, this act vested in the directors of the poorhouse the authority to hold for the use of the poor of the county all personal property which had escheated to the State from persons dying without heirs, and the care of which property had been vested in the overseers of the poor of the township "agreeably to the fourteenth section of the 'act regulating the course of descents and distribution of personal estates.' " This provision was evidently made in the effort to bring the whole system into line with the policy of relief in the poorhouse alone.

The law passed on January 19, 1829, further con-

centrated the care of the poor in the hands of the directors of the county poorhouse,¹⁶ who were now to give orders upon the county auditor for the payment of any expenses incurred in bringing the pauper to the poorhouse or in keeping him while his case was being investigated. They, not the township trustees or the overseers of the poor, were the ultimate authorities to decide whether or not a person was to be admitted to the poorhouse. All the authority hitherto vested in the overseers of the poor to investigate the cases of those who might not be legal residents of the State and to remove them now passed into the hands of the directors of the poorhouse. The relief of even those indigent persons who were in too precarious health to be removed to the poorhouse was placed in the hands of the directors. Thus, the tendency in the legislation of Ohio was to concentrate authority in the hands of the directors of the county poorhouse, and to provide entirely for the care of the poor through the authorities of that institution.

The last Ohio law dealing with the care of the poor by means of the poorhouse which comes within the scope of this discussion was passed on March 8, 1831.¹⁷ It was simply a codification of the laws passed since 1816, with some modifications based on the experience of the previous fifteen years. The only changes made in the existing laws were the elimination of the provision of the law of 1816 giving the townships the power to erect poorhouses if the county commissioners failed to do so, and the insertion of a provision that the superintendent should

admit no one to the poorhouse except upon the order of a member of the board of directors, instead of the previous rule that such an order must be signed by the president of that board. This act is of special interest in this study because it was adopted as the second poorhouse law enacted by the legislature of the Territory of Iowa.

In 1834 a minor amendment was made to this act, providing for the care of a needy person in the poorhouse even though he were not a legal resident of the county.¹⁸ This modification was made necessary by reason of the fact that outdoor relief had been discarded for relief in the poorhouse, and there was need of some method of caring for transients and non-residents.

A review of the course of development in the poor relief legislation of the Northwest Territory and Ohio from the beginning down to the year 1834 reveals many changes. From being merely a section in a law primarily concerning other subjects, the poor relief legislation had become a highly developed series of laws dealing only with the subject of the relief of poverty.

During this period of forty-four years two different methods of relieving the poor had developed: the old method of "farming out" the care of the poor, which continued throughout this period; and, after 1816, the new and alternative method of relief by means of the poorhouse. During these years there had also arisen the method of supplying temporary

relief to people in their homes, a method which was destined later to assume an importance undreamed of at its inception.

In the beginning the primary authorities for the relief of the needy were the justices of the peace, as in the acts of 1790 and 1795. Later these authorities gave way to the county commissioners, as in the act of 1799. In 1805 these officials in turn were superseded by the township trustees, who in 1808 took the place of the electors of the township in voting the taxes necessary for the relief of the poor. The legislation of 1816 left the township trustees as the primary authorities in charge of the care of the poor in those counties in which there were no county poorhouses, but put into the hands of the county commissioners the care of the poor where county poorhouses had been established.

The overseers of the poor in the townships were never the primary authorities for the relief of poverty during this period. They came nearest to the attainment of that position by the act of 1799, but even then they were required to report to the county commissioners the amounts which they had contracted to pay for the care of the poor; while the county commissioners were empowered to levy the necessary taxes. Usually the overseers were simply the secondary authorities immediately in charge of the administration, but under the control of the justices of the peace, as in the laws of 1790 and 1795, or of the county commissioners, as in the act of 1799, or of the

township trustees, as in the laws of 1805, 1808, and 1816.

In 1831 once more the overseers of the poor became almost independent of the township trustees in their care of those persons who required temporary relief, in farming out the care of those persons who must be cared for in counties having no poorhouses, and in investigating the cases of those paupers suspected of not having a legal settlement in their township. In removing such paupers to their last place of legal settlement, however, the overseers were to proceed under the orders of the township trustees. By the act of 1834, their control over those needing temporary relief was taken from them and they were required to remove all such persons to the county poorhouse, if there was one, under the orders of the township trustees. Moreover, by the acts of 1831, many of the powers of the overseers were taken from them and vested in the directors of the poorhouse.

At the close of the period under review, therefore, there were four sets of authorities having to do with persons cared for in the county poorhouses: the county commissioners, the board of directors, a superintendent, and the overseers of the poor. Furthermore, there were two sets of authorities, namely, the township trustees and the overseers of the poor, in charge of the poor in counties having no poorhouses, of such persons as needed temporary relief, of those who must be farmed out, and of those who were refused care by the authorities of the poorhouses for any reason.

In the terms of legal settlement there was not so much variation: the chief changes were from one year's residence, as in the acts of 1795, 1805, 1810, and 1816, to three years, as in the law of 1829, and back to one year again, as in the act of 1831, except in the case of indented servants or apprentices. By the act of 1829 it was provided that no mulatto or black person could ever gain a legal settlement in Ohio. This provision continued throughout the period, and is to be found in the laws of Iowa from 1842 to 1864. The only law requiring more than a mere residence for a certain length of time within a township was the act of 1795, borrowed from Pennsylvania, which required service in public office for one year, the payment for two successive years of taxes for the support of the poor, or a leasehold of lands or tenements and residence therein for one year—provisions which bear the ear-marks of their English origin. There was an exception to this rule in the case of indented servants and apprentices, who obtained a legal settlement by residence of one year in service, and in the case of a married woman whose husband had established a legal settlement.

The treatment of those who had no legal settlement varied from detailed provisions for their removal, most elaborate in the act of 1795, to simply warning them to depart but allowing them to remain, providing they furnished bonds to indemnify the county or township in case they became dependent, as in the law of 1816, or to giving temporary relief, as in the acts of 1829 and 1831.

In only one act of this period, that of 1831, was there provision for discharge from the poorhouse, and then only in the case of those who were in the poorhouse because of bodily infirmity. When such persons had recovered from their illness they were to be discharged by the superintendent upon the order of the board of directors.

The power to levy taxes for the relief of the poor varied with the changes in the law relative to the primary poor relief authorities. In the law of 1795 the township overseers of the poor, with the approbation of any two justices of the peace of the county, performed this function. By the act of 1799 the overseers were required to make an estimate of the money needed, whereupon the county commissioners levied the necessary tax. The act of 1805 authorized the township, presumably the electors, to levy the tax. In 1808 this power was given to the township trustees, a provision which was retained in the acts of 1810 and 1816. In 1829 the county commissioners became the tax-levying authorities, and they continued to perform this function to the end of the period under discussion.

The requirement that relatives should support paupers when able to do so, came into the laws of the Northwest Territory in 1795 with the statute adopted from Pennsylvania. The father and grandfather, mother and grandmother, and the children of paupers were held chargeable according to this law — a provision which was not repeated in any other law adopted in Ohio before 1834.

The provision for the binding out of pauper children first appeared in the law of 1795. In this law and in the acts of 1805 and 1816 the overseers of the poor in each township, with the approbation of two justices of the peace of the county, were authorized to apprentice destitute children. After 1827, however, this power resided in the directors of the poorhouse in townships having such an institution.

Up to 1816 the prevailing method of caring for the poor was by farming them out to the lowest bidder, but in that year a law was passed making specific provision for poorhouses. From that date throughout this period there were in existence two methods of caring for the poor. In those counties which had poorhouses, it was intended that paupers should be cared for in those institutions. In counties which had not established poorhouses, the poor were still farmed out, although from 1816 to 1827 it was clearly the intent of the law-makers that the poorhouse should supplant all other methods of relief for the poor. After an experience of eleven years, however, many of the counties still had no poorhouses, and the laws give evidence that the law-makers had come to recognize that some counties would not build them. Accordingly further provision was made for the care of the poor by the old method, and for the care of those temporarily in need of relief in their homes.

Throughout this period the poorhouse was governed by a board of directors appointed by the county commissioners, and was managed by a superintendent appointed by the board of directors.

These laws of the Northwest Territory and of Ohio have been reviewed thus fully because they not only served as models so often in the Territories of which the Iowa country was later a part, but for certain laws of the Territory of Iowa as well. It is interesting to note what a great influence the early poor laws of Ohio had upon similar legislation in the Territories and States hewn out of the Old Northwest and the newer domain of Louisiana. It is not remarkable, however, that Ohio had such an influence on legislation when one remembers that that State, together with the Northwest Territory, had experimented with almost every possible system. By reason of that fact the early statute books of Ohio constituted a rich source of legislation for new Territories and Commonwealths. Almost any kind of a law could be found therein. Doubtless also the frequent transplanting of Ohio legislation was due in part to the fact that the laws of that State were at hand in convenient form for ready reference in Chase's *Statutes of Ohio*, and to the equally important fact that many of the early law-makers of the Territories of the Middle West were men who had come from Ohio or had come under the influence of Ohio law.

II

POOR RELIEF LEGISLATION IN THE TERRITORY OF MICHIGAN

The Governor and Judges of the Northwest Territory were given authority by the Ordinance of 1787 to enact laws borrowed from the original States until such time as a Territorial legislature should be elected. This provision was repeated in the Organic Act creating the Territory of Indiana, and in the later act creating the Territory of Michigan.¹⁹ Accordingly, until 1823 the Governor and Judges of Michigan were the law-makers, and the laws were adaptations of statutes from the various States.²⁰ It was but natural, therefore, that many of the laws of the Territory of Michigan should be borrowed from Ohio.

During the history of the Territory of Michigan before 1834, the year in which Michigan's jurisdiction was extended over the Iowa country, eleven acts affecting the relief of the poor were passed. Between that date and July 4, 1836, when the Territory of Wisconsin was organized, there was enacted but one law touching upon the subject of poor relief, namely, the act of March 7, 1834, relating to the care of insane paupers. Of the eleven acts above mentioned, four were amendatory of laws already existing.

These were the laws of 1824, 1825, 1829, and 1831. The acts of 1827 and 1833 were practically alike with the exception of a change in the name of the township relief officials from "overseers of the poor" to "directors of the poor", and except that the latter act incorporated several sections from the law of 1830, providing for poorhouses. Two other laws, those of 1817 and 1820, resemble each other with the sole exception of the name of the relief authorities. In the one case they are the justices of the peace in the county, and in the other they are the county commissioners. The essential features of the law of 1830 were incorporated in the act of 1833; and the act of March 7, 1834, pertained solely to the care of insane paupers.

Thus it appears that only five radically different poor laws were enacted in the Territory of Michigan; the acts of 1805, 1809, 1817, 1827, and 1830. The act of 1833 was a codification of all the existing laws on the subject of poor relief. The laws of 1817 and 1820 were peculiar in that they both repealed the law of 1805, while neither of them repealed the act of 1809. In fact the latter law was not repealed in any of these subsequent acts by specific mention. Another of these laws, that of 1827, was enacted to expire by its own limitations in 1829, but by an act of 1829 it was continued in full force, except in certain provisions.

Characteristic of the first poor law of the Territory of Michigan, adopted in 1805 from the statutes of New Jersey, were the unit of relief (the Territory); the primary relief authorities (the justices of

the peace); the legal method of calling the attention of the justices of the peace to the needy person (by means of a written statement); and the method of caring for the poor (by contract to the lowest bidder, let by the Marshal of the Territory).²¹ The act of 1809, borrowed from Vermont, was marked by the introduction of terms of settlement; penalties for bringing into the Territory paupers or those likely to become such; the change of unit of relief from the Territory to the district; complicated regulations for the removal of those paupers who had no legal settlement and for the recovery of the costs of the temporary relief of such persons; the introduction of relief authorities called "overseers of the poor", together with detailed provisions for the keeping, auditing, and settling of their accounts; and penalties to enforce the service of those elected to the office of overseer.²² The law of 1817, adopted from Ohio, is characterized by the unit of relief (the county); the primary relief authorities (the court of general quarter sessions of the peace of the county); the secondary authority (the sheriff, who let all contracts for the care of the poor); provisions for a proper carrying out of the contracts; and the introduction of the policy of binding out pauper children to service until they reached their majority.²³

The law of 1827, adopted from the laws of Ohio, differed from those which preceded it in containing more detailed provisions concerning settlement and the removal of those who had no legal settlement; by the introduction of a section relative to the support

of paupers by relatives, and desertion on the part of natural supporters; by changing the unit of relief to the township, thus introducing the principle of the mixed township and county system of relief; by providing a complicated system of mixed control over the money necessary to support the poor (a control shared in by the freeholders of the township and the county supervisors); by including no provision for the binding out of pauper children; and by the appearance of a section concerning the removal of slaves who had run away from their masters.²⁴

In addition to these laws, which were of primary importance, mention should be made of certain minor acts in order to make clear the course of development. By an act adopted from Ohio on May 30, 1818, the courts of general quarter sessions of the peace were abolished and their powers and duties vested in the boards of county commissioners.²⁵ In accordance with this change the existing poor law was modified by an act of April 6, 1820.²⁶

An act of July 17, 1824, amended the existing laws by requiring the county commissioners to make the contracts for caring for paupers, or to provide temporary care for such as needed it, instead of delegating that power to the sheriff as their representative in the premises.²⁷

An amendatory act of 1825 introduced a number of new features. It was the first important statute relative to poor relief passed in Michigan after that Territory had passed into the second stage of Territorial government, when the laws were no longer

passed by the Governor and Judges but by the Governor and the Legislative Council. This law provided that no one should be supported as a pauper who was not a citizen of the United States or who had not resided in the Territory at the time of its surrender by the British authorities in accordance with the Treaty of London of November 19, 1794. Furthermore, it contained a clause providing for support of paupers by relatives — parents, grandparents, grandchildren, brothers, and sisters who were of sufficient ability — up to a maximum of \$2.50 a week for each pauper. A residence of three years previous to application for support was required; and the provisions relative to legal settlement were very strict. Settlement for the purposes of poor relief was limited to bona fide renters of a tenement of a yearly rental value of thirty dollars or more actually paid, or to freeholders of an estate valued at not less than one hundred dollars, or to holders of a public office for at least one year, or to apprentices of at least two years' standing. A legal settlement could be established by these parties only on the condition that they had not been warned by the county commissioners to depart within three years from the time of their coming to the Territory. The act also incorporated the provisions of the amendment of 1824.²⁸

On October 29, 1829, an act was passed which provided for a board of five directors and a township treasurer to administer the poor relief in the township²⁹ — a provision which was changed by the act of February 26, 1831, substituting a single director,³⁰

and modified again by the act of April 17, 1833, which provided for two directors of the poor.³¹ Aside from some minor details the act of 1829 provided principally for the farming out of the care of the poor by the directors, gave them power to lay down rules for the government of the contractor, directed that the taxes for the carrying out of the provisions of the law should be collected by the township treasurer, transferred the duties of the former overseers of the poor to the directors, and provided for the building of a township poorhouse by the board of directors with the approbation and consent of a majority of the householders of the township. The poor were to be cared for exclusively in the poorhouse wherever one was built. The chief features of all these amendatory acts were included in the important laws later enacted, especially in the act of 1833.

The act of July 22, 1830, copied almost verbatim from the Ohio law of February 26, 1816, was the first law of the Territory of Michigan devoted entirely to the subject of poorhouses.³² According to the provisions of this law the erection of poorhouses, as had been the case under the Ohio law, was made optional with the board of supervisors. The maximum amount of land to be used for such purposes was limited to one hundred and sixty acres — a provision not found in the Ohio act. There was to be a board of directors composed of not less than three or more than seven discreet persons to manage the institution, as compared with a board of seven directors in Ohio. Another new feature was the provision

that each township should share in the cost of maintaining the county poorhouse according to the number of paupers which that township contributed to the whole number therein. Moreover, those sections of the Ohio law which related to the establishment and maintenance of township poorhouses were omitted.

The law of April 22, 1833, stands out preëminently in Michigan's legislation on poor relief by reason of its comprehensiveness. It embraced practically all the legislation on this subject which had been enacted up to the time it was passed and which remained unrepealed, but it contained no new provisions.

In this law there was incorporated the provision of the amendatory act of 1829 to the effect that any poor person who had not a residence in the township was to be maintained by the county. It ignored, however, many of the provisions of the act of 1829, and went back in almost every detail to the act of 1827. At the same time it omitted the section of the latter act relating to the support of paupers by relatives. Instead of incorporating the changes in the definition of the poor relief authorities made by the acts of 1829 and 1831, it provided for two township directors of the poor according to the act passed on April 17, 1833. With a few minor changes, it incorporated the section of the act of 1829 providing for the binding out of pauper children as apprentices. Again, it provided for poorhouses on the basis of the law of 1830, but modified that act in accordance with the change made by the act of March 12, 1833, giving

the control of the poorhouse to the board of supervisors themselves rather than to a board of directors named by the supervisors. Finally, the act of 1833 retained the township basis of support for the county poorhouse as provided in the act of 1830. In short, as has already been stated, it was merely a codification of the existing laws of the Territory of Michigan upon the relief of the poor.³³

The primary relief authorities provided for in the Michigan act of 1805 were any three justices of the peace. The secondary authority, who carried out the orders of the court, and let the contracts for the care of the poor, was the Marshal of the Territory. By 1809 the unit of relief had changed, for in the meantime the Territory had been divided into districts and the three overseers of the poor in each district, appointed annually by the district judges, had become the authorities for the relief of the poor. By 1817 the whole scheme of local government had been changed, and the court of general quarter sessions of the peace in each county had been made the primary relief authorities. The sheriff of the county, as the secondary authority, let to the lowest bidders the contracts for the care of the poor. The only change made in this respect in the law of 1818 was that county commissioners displaced the justices of the peace,³⁴ but the contracts were still let by the sheriff. By an amendment adopted on July 17, 1824, however, the county commissioners were authorized to let the contract.

In the act of 1827 may be found the beginnings of

the mixed county and township system in the relief of poverty. The justices of the peace of the township and the overseers of the poor in that township were in primary control, but the freeholders voted the taxes and the county supervisors levied them. The secondary authorities were the constables and the overseers of the poor. The overseers thus held an unusual and unique position. In 1829 the law put the entire control of poor relief into the hands of a board composed of the treasurer of the township and five directors. The taxes were voted by the township electors. The number of these directors in a township was changed in 1831 from five to one, who had sole charge. The county supervisor from that township, the township clerk, and the justices of the peace, acting as a township board, had the power to fill vacancies in the office of director and to audit the accounts of the director and the treasurer. In the act of April 22, 1833, recognition was given to the fact that a general statute relating to townships passed on April 17, 1833, had changed the number of directors from one to two for each township.

The unit of relief was the whole Territory in 1805. A smaller unit for purposes of relief was not needed at that time, since it was many years before much money was appropriated for the care of the poor. In 1809, however, the unit of relief was changed to the district; in 1817, to the county; and in 1827, to the township, except in the case of paupers who had no legal settlement in the township, in which event it was the county. The law of 1833 retained the town-

ship as the unit, even though provision was made for a county poorhouse, since the township was responsible for the expense of keeping its paupers in the county poorhouse.

The act of 1805 contained no law of settlement; but in the act of 1809, borrowed from Vermont, there were elaborate provisions on the subject, requiring other than residence qualifications. These conditions of legal settlement were supplemented by the law of 1825, which added a number of qualifications.

In the special law of 1827 the provision of the act of 1809 with reference to the payment of taxes was repeated with a slight change, and the payment of road taxes as a qualification for settlement was specifically excepted. The provision of the law of 1825 with respect to occupying a tenement was repeated; the length of time which one must have served in a public office was doubled; a residence of one year for mariners or foreigners coming directly to the township was required; and the value of the freehold estate was reduced from one hundred to seventy-five dollars, but there was an added provision that legal settlement should continue only as long as the owner occupied the freehold. A provision that no slave could secure legal settlement first appears in this law; and the section of the law of 1809 concerning the legal settlement of bastards was repeated. These conditions of legal settlement prevailed until the end of the period under discussion, being specifically repeated in the laws of 1829 and 1833.

The task of removing persons not legally settled in

any district was put upon the overseers by the act of 1809, wherein an elaborate procedure was outlined in order that the cost of caring for those to be removed should be borne by the district where such persons last had legal settlement. Disputes which might occur over such matters were to be settled by the Supreme Court of the Territory. In the act of 1825 the county commissioners were constituted the authority to remove paupers not having a legal settlement, unless the pauper had been brought in by the master of a boat, in which case he must be removed by such master under penalty of a fine of one hundred dollars. The law of 1827 provided for removal by the constable on orders from any two justices of the peace, and the person removed was to be turned over to the constable of the adjoining county towards the place of his settlement, if out of the county, or of the township in which he had a legal settlement. Action to remove might begin either with the overseers of the poor or with the justices of the peace. Elaborate provisions, with suitable penalties, were prescribed to force the authorities of the proper local jurisdictions to receive these unwelcome prodigals. Moreover, provision was made for the removal of slaves who might come into the Territory.

In the laws of 1829, 1831, and 1833, no changes were made except that all the duties which had formerly fallen upon the overseers of the poor devolved upon the authorities in charge of the poor of

the township, which authorities changed with the enactment of each of these statutes.

During this period in the Territory of Michigan taxation was the chief source of revenue for the support of the poor. Certain fines, however, went into the same fund. For example, in the law of 1809 it was provided that any person bringing into the Territory any poor persons who had no legal settlement therein or any person who from visible appearances was a pauper, with the intent to make such persons chargeable to the Territory, should be subject to a fine of not to exceed three hundred dollars which was to go to the overseers to be used for the support of the poor in the district. According to the laws of 1825, 1827, and 1833 as much of the cost of supporting the poor as relatives were able to pay was recoverable from them within certain degrees of relationship. The laws of 1827 and 1833 stipulated that any overseers of the poor of a township who refused to receive any pauper who was removed from a place where he had no legal settlement were subject to a fine of twenty-five dollars for each offense, to be used for the care of the poor in the township from which the said pauper was removed. The principle of turning fines for certain offenses into the poor fund was firmly established in the law of Michigan when the jurisdiction of that Territory was extended over the Iowa country.

The method of levying the taxes for the support of the poor varied with the changes in the system

of local government. In 1805 the authorities having this power were the Governor and Judges of the Territory; in 1809, the judges of the district courts; in 1817, the justices of the court of general quarter sessions of the peace in each county; in 1818, the county commissioners; and according to the acts of March 30, 1827, and April 17, 1833, the electors of the townships.³⁵

Children were bound out by the court of general quarter sessions of the peace under the provisions of the act of 1817 — the first poor law in which provision was made for that method of caring for dependent children. In the act of 1820 the county commissioners were assigned this duty, which by the act of 1833 was transferred to the directors of the poor in each township.

The liability of relatives for the support of paupers was provided for in the laws of 1825, 1827, and 1833. In the first of these acts the father, grandfather, mother, grandmother, children, and grandchildren were liable, according to their ability, up to \$2.50 a week for each pauper, the amount being determined by the poor relief authorities. In the law of 1827 the same relatives were made liable, but the maximum amount which could be collected from them was \$1.25 per week for each dependent person, and there was a special provision concerning the liability of the property of any father or husband or widow who abandoned those naturally dependent upon them for support. The law of 1833 omitted the section relating to the liability of relatives, but its provi-

sions concerning deserting supporters were identical with those of the act of 1827, except for the change in designation of the poor relief authorities who were to have charge of the collection of the amounts for which natural supporters were liable.

Provisions for the care of the poor in poorhouses did not appear in the legislation of the Territory of Michigan until the adoption of the act of 1829, although in the act of 1809 there is language which might be construed to allow the overseers of the poor in each district to care for the poor by this method but which doubtless meant merely that some kind of a shelter should be provided, without implying that the district should provide a poorhouse.

Before the enactment of the general poorhouse law of 1829 a special act was approved on June 23, 1828, providing for an election in Wayne County on the proposition of building a poorhouse.³⁶ This act made provision for a combined poorhouse and house of correction, and the details of its management were definitely outlined. This feature, moreover, has recently been incorporated in the most successful experiment in the care of the poor thus far made in this country, namely, the plan adopted by the city of Cleveland, Ohio.

In case the electors of Wayne County should vote favorably on the proposition to erect a poorhouse, the law provided that the supervisors were to select a special committee to purchase the grounds and erect the buildings and appoint a board of three respectable citizens to manage the institution. These

directors were constituted a body corporate and politic, and penalties were prescribed for refusal to serve. The board of directors was authorized to appoint the superintendent and such other officials as were necessary to manage the poorhouse, to bind out apprentices, and to exercise all the powers hitherto residing in the overseers of the poor in that county. A limitation of one hundred and sixty acres was placed upon the size of the farm, as was also the case in the later laws of Michigan. The inmates of the house of correction were to serve the inmates of the poorhouse. Moreover, the act contained provisions for the auditing of the accounts of the board of directors and for a report by them to the county supervisors.

This unique institution was to serve also as an asylum for any pauper lunatics of the county, a provision which probably suggested the system of county prisons for this class of dependents provided for in the act of March 7, 1834. A quorum of the directors was required to meet at the institution once a month to see that their orders were being obeyed. Furthermore, the overseers of the poor in the various townships of the county were relieved of their functions so far as receiving and disbursing money for the relief of the poor was concerned. In fact, the overseers virtually became servants of the board of directors of the poorhouse.

The proposition was voted on favorably by the people of Wayne County, and Detroit was chosen as the location of the first county poorhouse in the Ter-

ritory of Michigan. Doubtless the example furnished by this county, which contained the largest settlement in the Territory, had much influence in determining the content of the general poorhouse laws of 1829 and 1830. At first the poorhouse was managed by the board of directors appointed by the supervisors, as provided for in the statute. But by an act approved on February 19, 1834, the common council of Detroit was required to perform the same duties with respect to the paupers of that city as were required, according to the act of April 22, 1833, of directors of the poor and justices of the peace in other parts of the Territory.

By the provisions of the act of 1829 the care of paupers in the poorhouse was not made obligatory, but was an alternative plan which might be adopted, and the authorities might rent, build, or purchase poorhouses, if such a course seemed desirable. The law of 1830, on the other hand, dealt exclusively with relief of the poor by means of the poorhouse. Borrowed from the Ohio act of 1816, it had the elaborate machinery of that law, except that it made no provision for township poorhouses in case a county did not build one, and that it provided that a township should pay the county for the care of the paupers which such township might have in the county poorhouse. Otherwise, it corresponded in its main features to the Ohio law upon which it was modeled.

The statute above outlined was incorporated into the act of 1833 — the first comprehensive statute dealing with the care of the poor adopted in the Ter-

ritory of Michigan, and in fact, the first law combining all the various methods of dealing with the poor produced by the experience of the States and Territories carved out of the Old Northwest up to that time. It should be noticed, however, that when the act of 1830 was incorporated into the law of 1833, cognizance was taken of the fact that the statute of March 12, 1833, had transferred the management of the poorhouse from the board of directors appointed by the supervisors, after the example of the Ohio law, to the county supervisors themselves.³⁷

Various methods of relieving the poor were provided for in the legislation of the Territory of Michigan. The act of 1805 made provision for the farming out of the poor by the Marshal of the Territory on the orders of any three justices of the peace. In the law of 1809 any method was apparently left open to the authorities, for the language of the act was very indefinite. The probabilities are that farming out the care of the poor was the method considered most feasible. The laws of 1817 and 1820 specified the farming out of the adults and binding out of the dependent children. Farming out was supplemented in the act of 1824 by provision for direct outdoor relief in the case of those in temporary need — the first appearance of this method in the legislation of Michigan. In 1825 there was added the provision for support by relatives, or by relatives and the county. The temporary law of 1827 retained the section relative to support by relatives, contained a family-desertion clause, and provided again for di-

rect out-relief in money. The law of 1829 definitely provided for the erection of city or township poorhouses upon the approval of a majority of the inhabitants and householders, and for binding out the pauper children in the poorhouses. In 1830 provision was made for county poorhouses, supported by the townships in proportion to the number of paupers in that institution from each township. In 1833 the only changes made in the law of 1827 were to omit the provisions concerning support by relatives and to incorporate the optional provisions for county poorhouses found in the law of 1830.

It was only in an act of March 7, 1834, that provision was made for the special treatment of the pauper insane.³⁸ It is quite likely that, while the laws provided for the erection of poorhouses, very few counties availed themselves of the opportunity, and therefore the problem of the separation of any class of defectives from the poor had not arisen. The act of March 7th required the sheriff to receive insane paupers and care for them in the county prison or other place of security, if asked to do so by the directors of the poor in the townships, or by the mayor, recorder, and aldermen of Detroit—a provision pointing to the realization by the community that this class of paupers required special care in the interests of the public.

A study of the legislation of the Territory of Michigan reveals the same uncertainty as to the best method of relieving poverty as was exhibited in Ohio.

At the same time, it is evident that Michigan profited by the experience of Ohio and did not endeavor to solve the problem by any one method as was attempted in that State from 1816 to 1831 under the poorhouse law. During this period the Michigan country was undeveloped, and hence one is not surprised to find that the laws lack the elaborate details necessary in older Commonwealths. On the whole, however, the various systems of poor relief tried at one time or another in the Northwest Territory and Ohio are to be found in the laws of the Territory of Michigan; while the only new features are the act which resulted in the establishment of the poorhouse at Detroit, and the law combining the methods of caring for the poor in poorhouses, in their homes, or by contract.

III

POOR RELIEF LEGISLATION IN THE TERRITORY OF WISCONSIN

For almost two years after the organization of the original Territory of Wisconsin in 1836 no poor relief law was adopted, the first Wisconsin act on that subject being approved on January 3, 1838. Before the passage of this act the poor laws of Michigan continued in force in the Territory of Wisconsin, since section twelve of the Organic Act provided that "the existing laws of the territory of Michigan shall be extended over said territory [Wisconsin], so far as the same be not incompatible with the provisions of this act, subject, nevertheless, to be altered, modified, or repealed, by the governor and legislative assembly of the said territory of Wisconsin." ³⁹ Thus, in theory the Michigan statute of 1833 relating to the relief of the poor remained the law of the new Territory until the "first organization of the first board of county commissioners, in the several counties in this territory" under the Wisconsin acts of December 30, 1837, and January 3, 1838.

As a matter of fact, although the Iowa country was a part of the original Territory of Wisconsin, it is doubtful if the Michigan law was ever actually applied to the relief of poverty in the region west of the

Mississippi River because of the sparse population.⁴⁰ Moreover, since the Iowa country was organized into a separate Territory in 1838 it is probable that the Wisconsin law of the same year did not have any important effect until after the division of the Territory had taken place.

The importance of the Wisconsin act in this connection lies in the fact that the Territory of Iowa had no poor relief legislation of its own until January 16, 1840, and then the above law was adopted with a few modifications. Consequently it may be said that this Wisconsin law prevailed in the Territory of Iowa until the passage of the law of February 17, 1842, although again it is doubtful whether the law was ever invoked by a single county in the new and sparsely settled Territory.⁴¹

The lineage of this first poor law of the Territory of Wisconsin is doubtful.⁴² It had points of similarity to the Michigan act of 1833, but its points of difference were no less striking than its similarities. It resembled in some of its sections other acts of the Territory of Michigan and, of course, more remotely some of the Ohio laws upon which so much of the legislation of the Territory of Michigan was modeled. In section one it followed quite closely section one of the Michigan act of 1820, although it was much different in phraseology. Section two resembled in a general way the same section of the Michigan act of 1825. Precisely the same relatives were made liable for the support of paupers; but the Wisconsin statute made the penalty recoverable for refusal to sup-

port pauper relatives fifteen dollars per month instead of \$2.50 a week, and excepted all relatives but parents and children from liability to support pauper relatives who were paupers by reason of intemperance or bad conduct. Section three was simply an extension of section two precisely defining the order in which relatives should be called upon to support paupers, a provision here met with for the first time in the legislation of Ohio, Michigan, or Wisconsin.

Section four reminds one of those provisions of the Ohio and Michigan acts which made certain persons, who for some reason had no legal claim upon the poor funds, a charge upon the county. The purpose of the Wisconsin statute, however, was much broader, in that it made the reference to those who had no relatives to support them a means of defining those who might receive relief, and provided two methods by which the commissioners might care for the poor — by contract or by appointing agents to care for them. Section five, relating to the binding out of minor paupers, resembled section fifteen of the Michigan act of 1833 in principle, although there were striking differences in the language. Sections six and seven, the first part of section eight, and all of section nine remind one of section sixteen of the Michigan act of 1833, but they were much briefer and simpler and were to be administered by different authorities. The latter part of section eight was somewhat like section five of the same Michigan act, except that the procedure in the case of a non-resident pauper was reversed. The latter part of sec-

tion ten resembled section two of the Michigan act of 1809, in that it provided a penalty to be imposed on any one who should bring a pauper into a county, and it was similar to section six of the Michigan act of 1825, in that the penalty for such an offense was \$100. Section eleven provided that the act should take effect upon the organization of the first board of county commissioners in the several counties of the Territory.⁴³

From this brief review and comparison, it is evident that the authors of the Wisconsin act of January 3, 1838, gathered their ideas from many different sources — chiefly from the laws of Michigan — but that they combined them into a new statute in an entirely independent manner. Throughout the measure there are signs of a demand for directness of method and simplicity of procedure. Apparently the authors were in close touch with conditions in the pioneer region for which they were legislating and therefore rejected all details that were superfluous and inapplicable. The simplicity and directness of the law becomes apparent upon a brief analysis.

The unit of relief was the county; and so the primary relief authorities were the county commissioners, although there were township overseers of the poor whose duty it was to care for those who needed temporary relief and were not properly county charges under the act, and to supplement the work of the county commissioners. The terms of settlement were simplified to a residence of one year. The poor

could be cared for by farming them out on contract, by committing them to the care of agents appointed by the county commissioners, by binding out the minors, or by providing workhouses for their care. Relatives were chargeable (if able to furnish the support) with the care of paupers according to a specifically designated order of relationship. In fact, the primary responsibility for the care of the poor according to this law lay upon the relatives — a provision the wisdom of which has been demonstrated by modern philanthropy.

The law, furthermore, contained provisions for the removal of paupers who had no legal settlement, or for a warning to them to depart from the relief unit and for the cessation of relief. Penalties were also prescribed for the bringing of paupers into the Territory. Idiots and lunatics were specifically included with the poor in the provisions of this act, and in the sections dealing with the care of paupers who fell sick it continued the best practices of the laws of Ohio and Michigan. Its brevity, simplicity, and comprehensiveness, together with its lack of detailed administrative directions, mark this law as distinctly modern in its nature.

IV

POOR RELIEF LEGISLATION IN THE TERRITORY OF IOWA

The First Legislative Assembly of the Territory of Iowa passed no general law relative to the relief of the poor, although a bill for such an act was introduced, passed the House, and was sent to the Council, where after considerable consideration it was indefinitely postponed.⁴⁴ As a consequence the law of Wisconsin Territory, approved on January 3, 1838, remained in force in the Territory of Iowa. The First Legislative Assembly did, however, pass an act providing that all insane paupers should be entitled to the benefits of the laws of the Territory for the relief of other paupers, and that all officials concerned should govern themselves accordingly.⁴⁵

The first statute relating strictly to the relief of the poor, enacted in the Territory of Iowa, was passed by the Second Legislative Assembly. Introduced into the Council on November 28, 1839, it passed both houses and was signed by Governor Lucas on January 16, 1840.⁴⁶ This act was almost a duplicate of the Wisconsin law approved on January 3, 1838.

As in the Wisconsin act, the care of the poor was vested exclusively in the county commissioners.⁴⁷

From the list of relatives mentioned in the Wisconsin law as liable for the support of paupers there were omitted the grandfather, grandmother, grandchildren, brothers, and sisters. Only parents and children were retained. From the Wisconsin law, therefore, was also eliminated the proviso that in case poverty was caused by intemperance or bad conduct only the parents or children were liable. Penalties for the failure of support by the relatives named were retained. Furthermore, this act followed the Wisconsin law in allowing the county commissioners to care for the poor by contract or by agents; and differed therefrom only in the omission of the provision that married women during the lifetime of their husbands were not to be liable to a suit for the maintenance of pauper relatives, and in the omission of section three of the Wisconsin act naming the order in which relatives were to be liable — omissions made necessary by the change concerning the relatives who were liable for the support of paupers. The section with reference to binding out minor children differed from the Wisconsin statute only in omitting the provision that they were to be bound out to a "respectable householder of the county".

The method of caring for non-resident paupers was the same in both statutes, except that the Iowa law substituted the county commissioners for the township overseers of the poor. In both cases the expense was to be paid out of the county treasury. Both laws required the county commissioners to secure from applicants for relief satisfactory evidence of a resi-

dence of twelve months before relief could be given. The sections on the removal of non-resident applicants for relief who were not sick were practically identical, requiring, in both cases, either an order directed to the constable to remove such persons at county expense to their proper places of residence or else a warning to the persons to depart, refusal of any relief thereafter, and a report to the clerk of the board of county commissioners by the constable indicating the service of such a notice. Both laws had the same provisions for penalizing persons who brought paupers into the county, except that the Wisconsin statute provided for a fine of one hundred dollars to be recovered before any justice of the peace or other court having jurisdiction, while the Iowa statute omitted any mention of the justices of the peace. In both cases the fine was to be used for the care of the poor of the county.

The sections on the establishment of poorhouses were alike in the two statutes — providing for the building or establishing of workhouses, if deemed proper, for such paupers as became county charges. These institutions were to be under such rules and regulations as the commissioners considered just and necessary. The Iowa law omitted the last section of the Wisconsin act stating the time when the act was to go into operation. In short, the Iowa law was a faithful copy of the Wisconsin act, with such modifications as were needed to adapt it to the local administrative system of the new Territory.⁴⁸ The fol-

lowing parallel comparison will reveal more clearly the close resemblance between these two statutes:

THE WISCONSIN STATUTE OF
JANUARY 3, 1838

THE IOWA STATUTE OF JAN-
UARY 16, 1840

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin*, That the board of county commissioners, of the several counties of this territory, shall be, and they are hereby vested, with entire and exclusive superintendence of the poor in their respective counties.

SECTION 2. Every poor person, who shall be unable to earn a livelihood, in consequence of bodily infirmity, idiocy, lunacy, or other unavoidable cause, shall be supported by the father, grandfather, mother, grandmother, children, grandchildren, brothers or sisters, of such poor person, if they or either of them be of sufficient ability; and every person who shall fail or refuse to support his or her father, grandfather, mother, grand-

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa*, That the board of county commissioners of the several counties of this territory, shall be and they are hereby vested with entire and exclusive superintendence of the poor in their respective counties.

SEC. 2. Every poor person who shall be unable to earn a livelihood, in consequence of bodily infirmity, idiocy, lunacy or other unavoidable cause, shall be supported by the father, mother, or children of such poor person, if they, or either of them, be of sufficient ability, and every person who shall fail or refuse to support his or her father, mother or child, when directed by the board of commissioners of the county where such poor

mother, child, or grandchild, sister or brother, when directed by the board of county commissioners of the county where such poor person shall be found, whether such relation reside in the county or not, shall forfeit and pay to the county commissioners, for the use of the poor of their county, the sum of fifteen dollars per month; for which if they or either of them shall fail or refuse so to do, to be recovered in the name of the county commissioners, for the use of the poor as aforesaid, before any justice of the peace, or any court having jurisdiction: *provided*, that when any person becomes a pauper, from intemperance, or other bad conduct, they shall not be entitled to support from any relation, except parent or child.

person shall be found, whether such relative reside in the county or not, shall forfeit and pay to the county commissioners, for the use of the poor of their county, the sum of fifteen dollars per month, to be recovered in the name of the county commissioners, for the use of the poor as aforesaid, before any justice of the peace or any court having jurisdiction.

SECTION 3. The children shall be the first called on, to support their parents, if there be children of sufficient ability. If there be

none of sufficient ability the parents of such poor person shall be next called on; and if there be no parents, or children, of sufficient ability, the brothers and sisters of such poor person shall be next called on; and if there be no brothers or sisters, the grandchildren of such poor person, shall be called on, and then on the grandparents: *provided*, married females, whilst their husbands live shall not be liable to a suit.

SECTION 4. When any such poor person shall not have any such relatives, in any county in this territory, as are named in the preceding sections, or such relative shall not be of sufficient ability, or shall fail, or refuse, to maintain such pauper, then the said pauper, shall receive such relief as his or her case may require, out of the county treasury; and the county commissioners may either make contracts for the necessary maintenance of the poor, or

SEC. 3. When any such person shall not have any such relative in this territory, as are named in the preceding sections, or such relative shall not be of sufficient ability, or shall fail or refuse to maintain such pauper, then the said pauper shall receive such relief as the case may require out of the county treasury; and the county commissioners may either make contracts for the necessary maintenance of the poor, or appoint such agents as they may deem nec-

appoint such agents as they may deem necessary to oversee and provide for the same.— *Laws of the Territory of Iowa*, 1839-1840, pp. 83, 84.

same.— *Laws of the Territory of Wisconsin*, 1837-1838, pp. 178, 179.

Of all the features which were to be found in the various laws of the Northwest Territory, and the Territories of Michigan and Wisconsin, the following survived in the first poor law of the Territory of Iowa:

1. The primary authorities charged with the care of the poor were the county commissioners. In this respect the law followed the Michigan experiment of 1818, when, on the basis of the experience in Ohio, the device was invented of making the county commissioners responsible not only for the conduct of the poorhouse as had been the case in Ohio, but also for the outdoor relief.

2. The section making relatives responsible for the care of paupers remained after it had been left out of the laws of Ohio for many years. Of the relatives named in the original statute of the Northwest Territory (1795) which was borrowed from Pennsylvania there remained, however, only the father, mother, and children of the pauper who were held liable for his support. All other relatives had been dropped entirely from enumeration in the law.⁴⁹ In the case of paupers not having a legal settlement and falling sick in the county, the Iowa law differed from the Wisconsin statute by making the county commis-

sioners rather than the overseers of the poor responsible for their care.

3. The provision for overseers of the poor was omitted from the Wisconsin statute when that law was copied by the Legislative Assembly of the Territory of Iowa. The county commissioners were made responsible for the entire care of the poor. On January 10, 1840, just six days before the general law relating to the relief of the poor was approved, however, the legislature passed and the Governor approved an act concerning township officers, among whom were two overseers of the poor to be elected by the electors of the township. It was the duty of the township trustees to settle the accounts of the overseers of the poor, and to provide compensation for them.⁵⁰ Three theories may be advanced to account for this anomalous condition of affairs. In the first place, it may be assumed that this provision was made on the basis of the practice which had obtained from the days when the jurisdiction of Michigan Territory was extended over this region and that the overseers here provided for did actually function even after the adoption law of January 16, 1840, was passed. Secondly, it is reasonable to suppose that when the act of January 16th was passed, placing the whole system of poor relief in the hands of the county commissioners without any provision for township control, the inconsistency between the two laws with respect to the relief authorities was not noticed. Finally, it is possible that the Legislative Assembly allowed the provision for overseers of the poor to

stand for the reason that the law of January 16th did not go into effect in any given county until after the organization of the board of county commissioners.

4. The Iowa law retained the provision that the county commissioners should build a poorhouse if they saw fit.

5. It retained the section relating to the removal of persons not having a legal settlement who applied for relief or were likely to need relief, the procedure consisting of a warning followed by instructions to the constable to remove such persons.

No statute relative to poor relief which has thus far come within the scope of this discussion was so admirably adapted to the needs of a young and growing community as the first law enacted in the Territory of Iowa. Simple, comprehensive, easily adapted to the changing conditions of a new country, it represents a type of law on the relief of the poor which is all too rare even at this late date.

The act of January 16, 1840, contained no clause repealing any existing laws. At the special session of the Legislative Assembly, held in the summer of 1840, however, an act was passed which repealed all acts of the Territories of Michigan and Wisconsin which were in effect in the Iowa country on July 4, 1838, the date of the organization of the new Territory.⁵¹

The act of 1840 remained in force for two years, or until the laws enacted by the Third Legislative Assembly of the Territory went into effect. Two

bills relative to the care of the poor were passed during this session of the Territorial legislature. Turning away from the precedents set by Michigan and Wisconsin in enacting a comprehensive bill covering the care of the poor both outside and inside the poorhouse, the legislature in 1842 passed an act "for the relief of the Poor" and another "to authorize the establishment of poor Houses". Both were introduced by Mr. Biggs on January 24, 1842,⁵² and both were borrowed from the Ohio statutes of 1831.

The bill relating to the care of the poor outside of the poorhouses contained a section which provided that "nothing in this act shall be so construed as to enable any black or mulatto person to gain a legal settlement in this Territory", a provision which had been inserted in the poor law of Ohio in 1829, as has already been seen. Mr. Porter, a Whig, moved that this section be stricken out; but on a yea and nay vote the motion was lost by a vote of twenty to three.⁵³ Aside from this incident neither of these bills seemed to excite any popular interest at a time when the chief points of attention were political rather than humanitarian. This is indicated by the fact that in the press of that day no notice was taken of these bills except as they were mentioned in the list of bills which had been introduced or passed. On February 16th the act for the relief of the poor was approved, and on the following day the law providing for poorhouses received the Governor's signature.

The essential features of the law for the relief of

the poor outside the poorhouse may be briefly summarized. In general, legal settlement could be obtained by a residence of one year in any township or, in case a person had been warned to depart, by remaining three years after such warning without having been warned again, or by a residence of three years in the case of servants and apprentices. The place of settlement of a married woman was that of her husband, even after his death. In case the husband had no settlement, that of the woman was the place where she had her last legal settlement before marriage. Blacks and mulattoes, as has been noted, were denied legal settlement. Provision was made that nothing in this act should be construed to prevent any one from voting who had the right to the franchise under the laws of the Territory. The warning of persons suspected of becoming a charge was placed in the hands of the overseers of the poor in each township. The warning to depart was to be issued by them to a constable, who was to serve it and make a report of such service to the clerk of the township, by whom the proper record was to be made.

When any person entitled to relief was found to be suffering in a county which had a poorhouse, the township trustees were required to make out an order and statement of facts as prescribed in the act establishing poorhouses enacted by this same Legislative Assembly. But in case the county had no poorhouse, the overseers of the poor were to give such relief as they thought necessary, or in case more than tem-

porary relief was required, they were to let out the relief of the poor by contract for a period of not more than one year.

This law introduced the possibility of confusion by reason of the fact that the last section of the act, which provided that in those counties which were not yet organized into townships the act of 1840 should remain in full force and effect. It will be recalled that under that law all poor relief was in the hands of the county commissioners. The effect of the new law, therefore, was that there were three systems of relief in operation at the same time in the Territory of Iowa — relief in the poorhouse in those counties where there was one, relief by the overseers of the poor in those counties in which townships had been organized and in which there was no poorhouse, and relief by the county commissioners by means of contracts in those counties in which townships were not organized.

In case the directors of the poorhouse refused to receive and care for any pauper sent to them, the overseers of the township sending him were to provide for his relief by contract.

The overseers were required to provide temporary relief for any needy person not having a legal settlement in the township. It was the duty of the overseers, however, to see that such person was sent back to his place of legal settlement, and the cost of his care paid by the township where he had a legal settlement, if necessary by action before the district court of the county in which either or both townships

were located. In case the person had no legal settlement within the Territory, he might be removed to his place of legal settlement by the overseers on order of the township trustees.

Furthermore, it was specified that the overseers keep a strict account of the expenses incurred by them in supporting the poor in their townships, as well as a record of the names of those aided and of the services rendered to such poor persons, and that they should present these accounts to the township trustees on the first Monday of March in each year to be audited and settled. The overseers were to be allowed such compensation for their services as the trustees thought just and reasonable.

The township trustees were authorized to issue orders on the township treasurer for the payment of any expenses incurred in the relief of the poor. They were also the custodians of any gifts or bequests for the care of the poor, under such rules and regulations as might be made by law.⁵⁴

The characteristic features of the poorhouse law approved on February 17, 1842, and which was the complement of the outdoor relief law, also deserve some attention. Thus the county commissioners of each county were authorized to establish poorhouses whenever they deemed such action desirable. They had the power to purchase as much land for that purpose as they thought necessary, but it was distinctly declared that the cost of such land and building should be met by a tax levied for that express pur-

pose, to be collected in the same manner as other county taxes. That is, future generations were not to be taxed through the issuance of bonds to raise funds for the establishment of these institutions, nor was the present generation to be loaded with that expense by indirect methods. There was no limit on the amount of land which could be purchased, as there had been in Michigan.

A board of directors, composed of three residents of the county appointed by the county commissioners, had charge of the poorhouse. Appointed for one year, they were required to take an oath of office and to serve until their successors were appointed and qualified. Moreover, there was to be a clerk whose duties were to be defined by the board. This board of directors was a body corporate and politic and had complete control of the poorhouse. Meetings must be held quarterly and as much oftener as the needs of the institution demanded. The board was authorized to appoint a superintendent who should have immediate charge of the institution, but should be under the strict control of the board.

The superintendent could require reasonable labor from the inmates of the institution; and he could receive such persons only as produced a voucher signed by the township trustees or by the county commissioners, accompanied by a statement signed by those authorities giving a list of specified facts about the applicant for relief, and accompanied also by an order from a member of the board of directors to admit such person to the poorhouse.

The directors were to provide that the poorhouse should be visited at least once a month by one of their number, who should make a report of the condition of the institution and of the inmates to the board at its next meeting. The directors, in turn, were to report to the county commissioners in detail concerning their work.

The expenses of maintaining the poorhouse, as well as the cost of its establishment, were to be paid out of the county treasury on the order of the county commissioners. The directors were also to issue orders on the county commissioners for the expense incurred by a township or individual in removing to the poorhouse a pauper who was legally a county charge or in caring for him before he could be removed thither. The county commissioners were to draw their order on the county treasurer for the amount.

It was also provided that the directors were to bind out all the poor children in the poorhouse, on the terms prescribed by the act governing apprentices and servants.

Another power given to the directors was the authority to remove any person who might get into the poorhouse, but whose legal settlement was in another county, State, or Territory, to his proper place of settlement in the same way as the overseers of the poor removed those who had no legal settlement in the township. The act also contained provisions for the discharge of persons who had been admitted to the poorhouse because of bodily infirmity or sickness,

when in the opinion of the directors such persons had so far recovered as to be able to support themselves. The directors were to provide care for those who were liable to be sent to the poorhouse but who could not be removed at once because of sickness.

In case the ordinary revenue of the county was insufficient to carry out the provisions of this act, the county commissioners were authorized to levy a special tax of one mill on the dollar for the relief of the poor to be levied and collected with the other taxes.

The directors of the poorhouse were to be allowed such pay for their services by the county commissioners as the latter thought reasonable, not exceeding one dollar and fifty cents a day each for every day necessarily employed in their duties.⁵⁵

Both of these laws were copied from the Ohio statutes of 1831, with but few changes. A few sections in parallel columns will reveal this fact better than any comparative discussion could do. First, the close resemblance of the Iowa law on poor relief outside of the poorhouse to the Ohio act of March 14, 1831, will be seen from the following sections:⁵⁶

THE OUT-RELIEF ACT OF	THE OUT-RELIEF ACT OF
OHIO, MARCH 14, 1831	IOWA, FEBRUARY 16, 1842

SECTION 1. <i>Be it enacted,</i>	SECTION 1. <i>Be it enacted</i>
That any person or persons,	<i>by the Council and House of</i>
other than those hereinafter	<i>Representatives of the Terri-</i>
provided for, residing one	<i>tory of Iowa, That any per-</i>
year in any township in this	<i>son or persons, other than</i>

state, without being warned by the overseers of the poor for said township to depart the same; or three years after being once so warned, without being again warned as aforesaid, shall be considered as having gained a legal settlement in such township; every indented servant or apprentice, legally brought into this state, shall obtain a legal settlement in the township where such servant or apprentice first served his master or mistress three years; and every married woman, during coverture, and after her husband's death, shall be considered legally settled in the place where he was last legally settled; but if he shall have, or shall have had, no known legal settlement, then she shall be considered as settled in the place where she was last legally settled before marriage.

SECTION 2. That nothing

those hereinafter provided for, residing one year in any township in this Territory, without being warned by the overseers of the poor for said township, to depart the same or three years after being once so warned, without being again warned as aforesaid, shall be considered as having gained a legal residence in such township; every indented servant or apprentice legally brought into this Territory, shall obtain a legal settlement in the township where such servant or apprentice first served his master or mistress three years; and every married woman during coverture, and after her husband's death, shall be considered legally settled in the place where he was last legally settled; but if he shall have, or shall have had, no known legal settlement, then she shall be considered as settled in the place where she was last legally settled before marriage.

SEC. 2. That nothing in

in this act shall be so construed as to enable any black or mulatto person to gain a legal settlement in this state.

SECTION 3. That the provisions of the first section of this act shall not be so construed, as to exclude any person from voting at elections, who would otherwise, by the constitutions and laws of this state, be entitled to vote.—Chase's *Statutes of Ohio*, Vol. III, p. 1832.

Again, the first poorhouse law of the Territory of Iowa closely resembles the Ohio poorhouse law of 1831, as will be seen in the following sections:

THE OHIO ACT OF MARCH 8,
1831

SECTION 1. *Be it enacted, &c.* That the commissioners of each and every county within this state, shall be, and they are hereby, authorized to erect and establish poor-houses within their respective counties, whenever in their opinion, such a measure will be proper and advantageous; and for that purpose it shall be lawful

this act shall be so construed, as to enable any black or mulatto person to gain a legal settlement in this Territory.

SEC. 3. That the provisions of this first section of this act, shall not be so construed as to exclude any person from voting at elections, who would otherwise by the laws of this Territory be entitled to vote.—*Laws of the Territory of Iowa*, 1841-1842, p. 58.

THE IOWA ACT OF FEBRUARY
17, 1842

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa*, That the county commissioners of each and every county within this Territory, shall be, and they are hereby authorized, to erect and establish poor houses within their respective counties, whenever in their opinion, such a mea-

for the said commissioners, to purchase such lot or tract of land as they may judge necessary for the accommodation of the institution: *Provided*, that if the commissioners of any county shall think proper to purchase land, and erect a county poor-house under the provisions of this act, the expense of such purchase and erection shall be defrayed by a tax levied on the objects of county taxation for that express purpose; which tax shall be collected and paid over in the same manner that other taxes are collected.

SECTION 6. That the board of directors shall, yearly, and every year, report to the commissioners of the county, the state of the institution, with a full and correct account of all their proceedings, contracts and disbursements: and the expense of establishing and supporting the institution, shall be paid on the order of the county auditor, by the

sure will be proper and advantageous, and for that purpose it shall be lawful for said commissioners, to purchase such lot or tract of land, as they may deem necessary for the accommodation of the institution: *Provided* that if the commissioners of any county shall think proper to purchase land and erect a poor house under the provisions of this act, the expense of such purchase and erection, shall be defrayed by a tax levied on the general assessment roll for that express purpose, and collected and paid over in the same manner that other taxes are.

SEC. 6. That the board of directors shall annually report to the commissioners of the county, the state of the institution, with a full and correct account of all their proceedings, contracts, and disbursements, and the expenses of establishing and supporting the institution, shall be paid on the order of county commissioners out of any money in the county

direction of the commissioners, out of any money in the county treasury not otherwise appropriated.—Chase's *Statutes of Ohio*, Vol. III, pp. 1829, 1830. treasury, not otherwise appropriated.—*Laws of the Territory of Iowa*, 1841-1842, pp. 83, 84.

The correspondence between the other sections of these two laws is as close as between the sections above paralleled.

Departing from the simplicity of the former law, adopted from Wisconsin, these laws represented from one point of view a stage of development in local government which Iowa had not yet reached, for they contemplated thorough township organization throughout the region to which they applied. So apparent was their lack of adaptation to local conditions in the Territory of Iowa that a section was added to the act concerning the relief of the poor as passed in Iowa, providing that the law should apply only in those counties where townships had been organized.

From another point of view, this legislation represented a retrogression. When these acts were adopted in Ohio the device of uniting the two methods of caring for the poor by the outdoor or contract method and by poorhouses had not yet been hit upon. A comprehensive statute, including provisions for both methods of caring for the poor, was the work of Michigan legislators, as has already been noticed. This statute was virtually copied in the Wisconsin law, which in turn was followed in the first Iowa act.

Thus in enacting the legislation of 1842 the Iowa Legislative Assembly went back to old, outworn methods.

Moreover, this return to the earlier legislation of Ohio for models not only substituted complexity for simplicity, separate laws for a comprehensive statute, and laws poorly adapted to the stage of development reached in Iowa for a law admirably suited to conditions, but it also meant the return to a system and a method which had shown themselves to be unsuited even to Ohio, a much older and more developed Commonwealth. The system of poor relief which these laws introduced was cumbersome and unwieldy. It possessed an involved machinery which was not easy to operate even where the government was far enough developed to carry it out. Divided responsibility had been long tried, with the result that the Territories of Michigan, Wisconsin, and Iowa (in the first act) had turned to a simpler and more practical system.

In the Ohio legislation reënacted in Iowa in 1842 there was that involved division of responsibility and labor which appeals strongly to the political doctrinaire, but which is not practical in actual operation. A regular hierarchy of authorities to have charge of the care of the poor was provided for in these laws. The county commissioners established poorhouses and paid the expense of the erection and maintenance of such institutions. They appointed a board of directors who turned over the actual management of the poorhouses to a superintendent. The

directors were to appoint one of their number to inspect the poorhouse and report back to them; and they in turn were to report to the county commissioners. It should be remembered that these laws were enacted, not for a State with a population of millions, but for a thinly settled Territory in what was then the far West during the first half of the nineteenth century. They certainly were not devised for the convenience of those unfortunates who were supposed to get relief for their needs through these complex arrangements.

So illy, as a matter of fact, did the law of February 16, 1842, suit the needs of the young Territory that two years later the Legislative Assembly passed an act, approved on February 12, 1844, which amended the statute of 1842 by providing that all costs of relieving the poor should be paid, not out of the township treasury, but out of the county treasury, and that the accounts were to be audited by the county commissioners instead of by the township trustees.⁵⁷ Finally, on June 5, 1845, an act was approved which made the township trustees the overseers of the poor in their respective townships.⁵⁸ Both of these amendments were departures from the complexity of the laws borrowed from Ohio and steps in the direction of the simplicity of the first Iowa statute.

The poor laws of the Territory of Iowa, both for indoor and outdoor relief, were copies of laws already in existence. No new experiments were tried.

No new developments were made. Iowa first tried the Wisconsin law, which had an honorable ancestry, and then went to the statute books of Ohio and got two laws which were adopted almost literally. And yet, the poor laws of the Territory of Iowa, even though not original, were made up of selections from many different laws. In the course of development from the early days of the Northwest Territory down to the time when the first law was enacted in Iowa many experiments had been tried. In the furnace of actual experience on the frontier, the laws first adopted from the original States had been tested, and out from that trial they had emerged with some of their original features modified, with some new features added, and with some entirely gone. The unfortunate thing is that experience should not have been consulted more fully before the adoption in Iowa in 1842 of the laws borrowed from Ohio.

It may be profitable at this point to compare the first pieces of poor relief legislation in the Territory of Iowa with each other.

The law copied from Ohio resembled the first Iowa poor law in the matter of outdoor relief in that it required one year's residence to establish legal settlement and had much the same provisions concerning the way in which a non-resident pauper should be warned to leave the township or county. It required the poor authorities to render temporary relief to non-resident paupers. And finally, it made provision for the farming out of the support of those paupers

who must be maintained outside the poorhouse for more than mere temporary support.

The act of February 16, 1842, however, differed from the first Iowa law in many more points than it agreed with that statute. In the first place, it contained several additional provisions in regard to settlement. Not only must the needy person have resided one year in a place, but he must have resided there three years after having been warned once to depart. An indented servant or apprentice secured a residence for the purposes of relief when he had served his master or mistress three years in a single place. Provision was made for determining the settlement of married women who applied for relief; while any mulatto or black person was prohibited from ever securing a legal settlement in the Territory. Again, the poor law of 1842 made the township the unit of relief in all counties where townships had been organized. Consequently, the township trustees and the overseers of the poor became the relief authorities rather than the county commissioners. The sections relative to the support of paupers by their relatives were omitted, and there were no provisions for the care of minor paupers, such as the law of 1840 contained. Moreover, it was provided that if the support of the poor was farmed out the contract should not be let for a period exceeding one year. Provision was made for the collection of the costs of supporting a pauper having no legal settlement from the county or township where

such pauper had a settlement, and there was the stipulation that if the pauper furnished security to the county he need not be removed from the township. Finally, there was a section on bequests and gifts for the use of the poor which was lacking in the former Iowa law.

The law of 1842 concerning poorhouses agreed with the act of 1840 in that the county commissioners might establish poorhouses whenever they thought it advisable. It differed from the earlier law in its much greater detail and greatly increased complexity, as follows: (1) it provided that if the commissioners decided to establish a poorhouse the necessary money was to be secured by a special tax for that express purpose; (2) provision was made for the appointment of a board of three directors to control and manage the poorhouse, for the organization of this board, and for the making by them of rules and regulations for the government of the institution; (3) provision was made for the appointment of a superintendent by this board of directors, who should reside either in the poorhouse itself or in some adjoining building, and his duties were stated; (4) a monthly visit to the poorhouse by a member of the board of directors, and an annual report by the board to the county commissioners concerning the state of the poorhouse and all their proceedings, contracts, purchases, etc., were required; (5) the section imposing a fine upon any person who brought a pauper into the county was omitted; (6) the directors, rather than the county commissioners as in the former act,

were given the power to bind out pauper children as apprentices; (7) there were full and explicit directions as to who should be admitted to the poorhouse; (8) full provision was made for the removal to his place of legal settlement of any person not a legal resident who might have found his way into any poorhouse; (9) provision was made for the discharge of any inmate who had been received because of sickness; (10) authority was granted to levy a special poor tax of not more than one mill on the dollar in case the ordinary revenue did not provide sufficient funds with which to maintain the poorhouse; and (11) a section was inserted providing for the compensation of the members of the board of directors.

There is a paucity of data to explain why the Legislative Assembly of the Territory of Iowa turned away from the legislation which had been worked out in the frontier Territories of Michigan and Wisconsin and went directly to the laws of Ohio, a much more developed community in every way. It may be assumed, however, that it was due to the influence of the Ohio laws which were fresh in the minds of men, like Governor Robert Lucas, who had but recently come from Ohio, and to the availability of these models in Chase's *Statutes of Ohio*, which were to be found both in the Territorial library and in the private library of Governor Lucas. Other reasons for this apparent retrogression have not yet been discovered.

While final judgment should be passed only in the light of a study of the way in which these two laws

actually worked out in practical administration, with the evidence at hand it must be a matter of regret that the Legislative Assembly of the Territory of Iowa did not simply adapt the law borrowed from Wisconsin Territory a little more closely to local needs in Iowa by amendatory acts rather than reënact a law better suited to the more complex social conditions of a State like Ohio.

V

A GENERAL SURVEY OF POOR RELIEF LEGISLATION IN IOWA 1846-1914

During the years immediately preceding and immediately following the admission of Iowa into the Union other interests than such subjects as the care of the poor engrossed the attention of the legislators. In the first place, the strife of political parties was strong. Each party was playing politics to gain control of the State government and, therefore, almost every legislative measure was passed by a strict party vote. The fate of practically every bill that was introduced was determined so far as committee action was concerned by the question of party advantage.

Furthermore, the questions which concerned the legislators were quite different from those of the present day. The Territorial legislatures spent a considerable part of their time in passing special legislation. For example, they granted divorces; they were concerned with the passage of acts laying out Territorial roads; and they authorized the payment of bills which would now be handled through an administrative department. Large numbers of acts were passed legalizing the proceedings of boards

of county commissioners, boards of election, and other officials who were not too familiar with the duties required of them by law. By special acts the legislature incorporated all kinds of business enterprises, established ferries and bridges, permitted the establishment of mills, incorporated institutions of learning as well as cities and villages, besides providing for the organization of new counties and townships, and passing laws for the government of a new country. In spite of the fact that the Organic Law of the Territory provided for the extension of the laws of Michigan and Wisconsin over the new Territory until such time as the legislature should pass substitutes, there was such pressing need of legislation on almost every subject that the matter of the relief of the poor received scant consideration.

Again, it is to be noted that the interests of the people during the State-building stage in Iowa were not so much humanitarian as political in character. Those were the days of the pioneer, of individualism, of rough and ready independence, and while needy individuals were supplied with ready hospitality, there had not yet developed a sense of community responsibility for the relief of those elements of the population which were either unfortunate or lacking in the qualities necessary to the gaining of a livelihood.

Under these circumstances it is easy to understand why there were so few measures relating to the relief of the poor introduced into the Territorial legislatures and the early General Assemblies of the State.

Neither is it so inexplicable why the laws that were passed were not the result of independent and careful thought.

The first Constitution of the new State of Iowa provided that "All the laws now in force in this Territory, which are not repugnant to this constitution, shall remain in force until they expire by their own limitations, or be altered or repealed by the General Assembly of this State."⁵⁹ Thus, the poor laws enacted by the Territorial legislature in 1842 remained in force in the State. As a matter of fact, no laws of importance in the history of poor relief legislation were passed in Iowa between the year 1842 and the adoption of the *Code of 1851*.

The only legislation relative to poor relief enacted between 1846 and 1851 were special acts providing for the building and managing of poorhouses in the counties of Lee and Des Moines. These acts had for their purpose the abrogation of those parts of the law of 1842 which prescribed the procedure for purchasing land and building thereon a poorhouse,⁶⁰ the compelling of the county commissioners to purchase land for a poor farm, and the repeal of the part of the law respecting the appointment of a board of directors to govern the institution.⁶¹

Following the adoption of these laws came a series of special acts endeavoring to restore the application of the law of 1842 to Des Moines County;⁶² to secure uniformity of action in the two counties;⁶³ and finally, to undo the legislative tangle produced

by these contradictory acts⁶⁴ and thus revive the special modification of the Ohio-Iowa law.⁶⁵ As a matter of fact these special acts suspending the operation of the law of 1842 which was borrowed from Ohio and was still in force in Iowa, offer a significant commentary upon the inadaptability of the Ohio law to the Iowa situation,⁶⁶ and especially that part of it which related to a board of directors for the poor-house.

In addition to these special acts, on January 25, 1848, the Second General Assembly passed a joint resolution instructing the representatives of Iowa in Congress "to use their best endeavors to procure a donation of five sections of land out of any lands belonging to the General Government not yet disposed of, in or near the township of Fairview in said [Jones] county, or in the adjoining county of Linn, near the same township, as a commissioner appointed for that purpose may select, for the use of an Orphan Asylum and Manual Labor School." The resolution provided also that these lands were to remain a perpetual donation, the use and rent of which were to be applied to the benefit of poor orphan children and such other indigent persons as should be admitted to the institution as objects of charity. There is no evidence, however, that favorable action was taken by Congress on this joint resolution.⁶⁷

Thus it will be seen that the only significance of the poor relief legislation of this period is to show how ill-adapted the law of 1842 was to the needs of those counties which were ready to erect poorhouses,

and to indicate the small consideration which laws for the relief of the poor received in those days.

The *Code of 1851* was the outgrowth of a conviction which had been growing for some time in Iowa that a systematic arrangement of the existing law of the State was absolutely necessary. So keenly was it felt that the best talent available should be secured for the work of codification that, in spite of political strife, the commission finally chosen was one "eminently qualified for the task", being composed of Charles Mason, William G. Woodward, and Stephen Hempstead.⁶⁸

In general, the work of the commission which prepared the *Code of 1851*, stands out as a model of its kind. In part the new code was an orderly codification of already existing laws; in part it consisted of new laws. Its influence, says an eminent jurist, has been so great that while its sections "have been overlaid with subsequent legislation, they have been largely retained in the Revision of 1860, the Code of 1873 and the Code of 1897, as the best statement of that portion of the law which they were intended to cover."⁶⁹ Without doubt the poor relief law as found in the *Code of 1851* has been the dominant influence in all subsequent legislation upon that subject in this State.

The table of the various sections of the *Code of 1851* relative to the relief of the poor to be found in the Appendix will make clearer the range of sources from which these provisions were obtained. A brief perusal of this table reveals to what a degree the

poor relief law contained in the *Code of 1851* was a summary of the legislation with which the people inhabiting Iowa were more or less familiar, and in what sense the codifiers drew up a new law adapted to the needs of a new community. The comparison also reveals the debt which the code commissioners owed to the rich collections of statute law to be found in the statute books of Michigan and Ohio; and it shows how much new material was incorporated into the Code and what liberty was taken in rearrangement.

Chapter forty-eight of the *Code of 1851*, on "The Settlement and Support of the Poor", was divided into four parts or articles. Article one dealt with "The support of poor persons by their kindred"; article two with "Legal Settlements"; article three with "Relief of the Poor where there is no Poor House"; and article four with "Relief of the Poor where there is a Poor House". Under the first article there were twenty-two sections; under the second, eleven; under the third, nine; and under the last, twenty — a total of sixty-two sections as compared with thirty-two in the longest act in the Ohio statutes, that of 1795. At the same time, considering the number of subjects covered, this was the most comprehensive, and yet the briefest, piece of legislation for the relief of the poor passed up to this time in any of the States and Territories which have come within the scope of this study.

One of the chief characteristics of the legislation

of the *Code of 1851* is the vesting of primary authority in the county judge. This is a feature not peculiar, however, to the sections on the relief of the poor, for the county judge was now made the central figure in all phases of local administration. In this respect the *Code of 1851* represented in poor relief a retrogression to a method which had not found favor with those who had given most thought to the experience of those States where it had been tried, namely, the system of administering poor relief primarily through the courts. Provision was made for the mixed system of relief: first, support by kindred where there were such who could be compelled to care for their pauper relatives; second, relief by means of the poorhouse where such an institution existed, except in cases where some other plan seemed desirable to the judge; third, the farming out of the care of the poor to the highest bidder when that method commended itself to the judge; and fourth, relief by means of money to be used by needy persons in their homes when that method was as economical and seemed best.⁷⁰

Again, the law of 1851 was characterized by a remarkable blending of the chief features worked out by Ohio and Michigan into a new plan in which the county judge was the dominant figure. In this respect the law was prophetic of the tendency to concentrate authority which has been growing in more recent years. To be sure, the township trustees were required to help the judge in administering the law in the townships. To them the pauper made applica-

tion, but they in their turn must report the case at once to the county judge and warn from the township those paupers who had no settlement therein.⁷¹ There were to be directors of the poorhouse, but the appointment of these officers, in case the county had a poorhouse, was made optional with the county judge.⁷² If appointed, the directors were to have most of the powers, and were hedged about with many of the limitations, found in the Ohio and Michigan laws and the earlier laws of Iowa.⁷³

On the other hand, the law contained many features not found in the statutes thus far discussed, such as new provisions concerning the support of paupers by relatives, the continuance of a settlement once gained until a new one was obtained, the change of venue in cases of appeals, the removal of paupers from a place where they had no settlement to their place of settlement at their own request, a system of espionage over the contractors caring for the poor, and the creation of the position of steward of the poorhouse — which was but a new name for an old office.⁷⁴ The clearness of statement was one of the most remarkable features of the *Code of 1851*. The short, pointed sections, the lack of ambiguity, and the close relation between the parts made it a model code of poor relief legislation. Moreover, the strong centralization of power in the county judge removed the danger of confusion otherwise imminent in a code so complex in its origin.

The code commissioners, however, were not dependent entirely either upon the laws of the North-

west Territory and of Michigan and Wisconsin, or upon the early legislation of the Territory of Iowa. A diligent search has been made for the origin of that peculiar feature of the Code, the county judge system. Numerous suggestions have been made. One writer has suggested that it originated simply as an extension and concentration of the powers of the county commissioners combined with those of the probate judge.⁷⁵ Another investigator suggests that it was an imitation of the county court system of colonial Virginia.⁷⁶ Still another writer has stated that a correspondent of the *Burlington Tri-Weekly Telegraph*, in replying to another correspondent, made a rather direct suggestion that the county judge was a feature borrowed from some other State;⁷⁷ but no data has been discovered thus far to indicate what State was meant. Indeed, no direct evidence has been presented to show upon what codes or laws, if any, aside from the laws of the Northwest Territory, Ohio, Michigan, Wisconsin, and the earlier laws of Iowa, the makers of the *Code of 1851* drew.

Judge McClain accounts for many of the provisions of the *Code of 1851* by saying that legal reform was in the air at this time, and that during the year in which the code commissioners of Iowa were appointed, the New York commissioners, appointed to report legal reforms to the legislature of that State, had submitted the first of their reports. He adds that these reports "were not fully accepted by the New York legislature, either then or subsequently, but many of his cherished reforms were incorporated

into the written law, and the code of procedure was fully adopted. It was but natural that Judge Mason should feel the influence of this movement, which, commencing in New York, rapidly extended westward and radically affected the legislation of all the newer states, culminating eventually in California, where the Field codes so-called were substantially adopted in a body." But this writer gives no evidence that the New York legislation or the reports of the Field Commission had any direct influence upon the authors of the *Code of 1851*. In fact, he says: "It must not be assumed that the Code of 1851 was a copy of, or substantially derived from, any code found in any state. The general principles of law reform as they had been discussed in New York and elsewhere were recognized, but the result was the production of the Iowa author, and not a mere adaptation of the work of another." ⁷⁸

Furthermore, the compilers of the *Revision of 1860* declared that the "terms of the parent act [i. e. the *Revised Statutes of the State of New York* 1848] were so far departed from as to make it difficult even to those well versed in both acts, and almost impossible for others to apply the judicial illustration which the New York act has secured, to the illumination of our own." ⁷⁹

An examination of the *Revised Statutes of the State of New York*, however, reveals that in drawing up certain parts of the *Iowa Code of 1851*, the commissioners borrowed quite freely from the New York legislation. Below will be found in parallel

columns article one of chapter forty-eight of the *Code of 1851* and a number of sections from the *Revised Statutes of the State of New York*, 1848.⁸⁰

SECTIONS OF THE CODE OF 1851

787. The father, mother, children, grandfather, if of ability without his personal labor, and the male grandchildren who are of ability, of any poor person who is blind, old, lame or otherwise impotent so as to be unable to maintain himself by work shall jointly or severally relieve or maintain such poor person in such manner as may be approved by the trustees of the township where such poor person may be or by the directors, but these officers shall have no control unless the poor person has applied for aid.

788. The word "father" in the preceding section includes the putative father of an illegitimate child, and the question of his being the father may be tried in any action or proceeding to recover for or to compel the

SECTIONS OF THE REVISED STATUTES OF NEW YORK

SECTION 1. The father, mother and children who are of sufficient ability of any poor person who is blind, old, lame, impotent or decrepit so as to be unable by work to maintain himself shall at their own charge relieve and maintain such poor person in such manner as shall be approved by the overseers of the poor of the town where such poor person may be.

support of an illegitimate child. But there shall be no obligation to proceed against the putative father before proceeding against the mother.

789. Upon the failure of such relative so to relieve or maintain a poor person who has made application for relief the township trustees or the directors may apply to the court of the county where such poor person resides for an order to compel the same.

790. At least fourteen days written notice of the application shall be given by summons which shall be served as original process in an action, may be served and in any county by any officer thereof or by any other person.

791. The court shall make no order affecting a person not served but may notify him at any stage of the proceedings.

SEC. 2. Upon any failure of any such relative so to relieve and maintain any such poor person, it shall be the duty of the overseers of the poor of the town where such poor person may be to apply to the court of sessions of the county where such relative may dwell for an order to compel such relief; of which application at least fourteen days' notice in writing shall be given by serving the same personally or by leaving the same at the last place of dwelling of the individual to whom the same may be directed in case of his absence therefrom with some person of mature age.

SEC. 3. The court to which the said application may be made shall proceed in a summary way to hear the allegations and proofs of the parties, and shall order

792. The court may proceed in a summary manner to hear the allegations and proofs of the parties and order any one or more of the relatives of such poor person who appear to be able, to relieve and maintain him charging them as far as practicable in the order above named and for that purpose making new parties to the proceedings when necessary.

793. Such order may be for the entire or partial support of the poor person and it may be for support either by money or by taking the poor person to the relative's house, or the order may assign the poor person for a certain time to one and for another period to another relative as may be adjudged

such of the relatives aforesaid of such poor person as appear to be of sufficient ability to relieve and maintain such person, and shall therein specify the sum which will be sufficient for the support of such poor person, to be paid weekly. And the said court shall therein direct the relative or relatives who shall perform that duty in the following order: The father shall be first required to maintain such poor person; if there be none or he be not of sufficient ability, then the children of such poor person; if there be none or they be not of sufficient ability, then the mother.

SEC. 4. [Omitted].

SEC. 5. Such order may specify the time during which the relatives aforesaid shall maintain such poor person or during which any of the said sums so directed by the court shall be paid, or it may be indefinite and until the further order of the court.

just and convenient, taking into view the means of the several relatives.

794. If the court order the relief in any other manner than in money it shall fix a just weekly value upon it.

795. The order may be specific in point of time or it may be indefinite until the further order of the court and may be varied from time to time when the circumstances require it on the application of the trustees of the poor person, or of any relative affected by it, upon fourteen days notice being given.

796. When money is ordered to be paid it shall be paid to such officer as the court may direct.

797. If any person fails to render the support ordered, on the affidavit of one of the proper trustees or directors showing that fact the court may order execution for the amount due rating any support ordered in kind as before assessed. In such proceeding the county

The court may from time to time vary such order whenever circumstances shall require it, on the application either of any relative affected thereby or of any overseers of the poor of the town, upon fourteen days' notice being given.

SEC. 6. [Omitted].

SEC. 7. If any relative who shall have been required by such order to relieve or maintain any poor person shall neglect to do so in such manner as shall be approved by the overseers of the poor of the town where such poor person may be, and shall neglect to pay to such over-

is plaintiff and the person sought to be charged defendant.

798. An appeal may be taken from such judgment as provided in the chapter relating to the county judge.

799. Whenever a father, or a mother being a widow or living separate from her husband, abandons their children, or a husband his wife, leaving them chargeable or likely to become chargeable upon the public for their support the trustees of the township where such wife or children may be, or the directors, upon application being made to them may apply to the court of any county in which any estate of such father, mother,

seers weekly the sum prescribed by the court for the support of such poor person, the said overseers may maintain an action as for moneys had and received against such relative, and shall recover therein the sum so prescribed by the said court for every week the said order shall have been disobeyed, up to the time of such recovery, with costs of suit, for the use of the poor.

SEC. 8. Whenever the father, or mother being a widow or living separate from her husband, shall abscond from their children, or a husband from his wife, leaving any of them chargeable, or likely to become chargeable upon the public for their support, the overseers of the poor of the town where such wife or children may be, may apply to any two justices of the peace of any county in which any estate, real or personal of the said father, mother, or husband may be situated, for a warrant to seize the same.

or husband may be for a warrant to seize the same, and upon due proof of the above facts the court may issue its warrant authorizing the trustees or directors to take into their possession the goods, chattels, effects, things in action, and the lands of the person absconding.

800. By virtue of such warrant the trustees or directors may take the property wherever the same may be found in the same county and shall be vested with all the right and title to the personal property and to the rents of the real property which the person absconding had at the time of his departure.

801. All sales and transfers of any such property real or personal and leases made by the person after the issuing of the warrant shall be absolutely void.

802. The said trustees or directors shall immediately make an inventory of the property so seized by them

Upon due proof of the facts aforesaid, the said justices shall issue their warrant authorizing the said overseers to take and seize the goods, chattels and effects, things in action, and the lands and tenements of the person so absconding.

SEC. 9. By virtue of such warrant the said overseers may seize and take the said property wherever the same may be found, in the same county; and shall be vested with all the right and title to the said property which the person so absconding had at the time of his or her departure. All sales and transfers of any personal property left in the county from which such person absconded made by him after the issuing of such warrant, whether in payment of an antecedent debt, or for a new consideration shall be absolutely void. The overseers shall immediately make an inventory of the property so seized by

and return the same together with the proceedings to the court, there to be filed.

803. The court upon inquiring into the facts and circumstances of the case may discharge the order of seizure, but if it be not discharged the court shall have power to direct from time to time what part of the personal property shall be sold and how, and how much of the proceeds of such sale and of the rents and profits of the real estate shall be applied to the maintenance of the children or wife of the person so absconding.

804. If the party against whom such warrant issued return and support the wife or children so abandoned or give security to the county satisfactory to the judge that such wife or children shall not become chargeable to the county the warrant shall be discharged by an or-

them, and return the same together with their proceedings to the next court of sessions of the county where such overseers reside, there to be filed.

SEC. 10. The said court upon inquiring into the facts and circumstances of the case, may confirm the said warrant and seizure, or may discharge the same; and if the same be confirmed, shall from time to time direct what part of the personal property shall be sold and how much of the proceeds of such sale and of the rents and profits of the real estate, if any, shall be applied towards the maintenance of the children or the wife of the person so absconding.

SEC. 11. If the party against whom such warrant shall issue, return and support the wife or children so abandoned, or give security satisfactory to any two justices of the town, to the overseers of the poor of the town, that the wife or children so abandoned shall not become,

der of the court, and the property taken and remaining restored. — *Code of 1851*, pp. 124-126.

or thereafter be chargeable to the town or county, then such warrant shall be discharged by an order of such justices, and the property taken by virtue thereof, shall be restored to such party. — *Revised Statutes of the State of New York*, 1st Revision, 1848, according to *Revised Statutes of the State of New York*, Sixth Edition, 1875, Vol. II, Chap. XX, Title I. pp. 808, 809.

It should be said, however, that the close correspondence to be seen here is not to be found in the other three articles of the chapter on the care of the poor, which are based more directly upon the existing laws of Iowa, and the laws of Michigan, Ohio, and the Northwest Territory. In addition to the provisions derived from these sources, there were, as has already been pointed out, certain sections which apparently originated with the code commissioners themselves.

Between the enactment of the *Code of 1851* and the adoption of the *Revision of 1860* there was but little legislation on the subject of poor relief, and none of importance. But three acts are to be found in the laws of that period, and two of these are legalizing acts. The other was a special act approved on January 12, 1855, authorizing the county judge of Lee

County to sell the land then in use for a county poor farm and to buy for the county other lands for that purpose and erect buildings thereon.⁸¹ One of the legalizing acts, approved on March 23, 1858, legalized the action of the county judge of Pottawattamie County in purchasing real estate for a poorhouse.⁸² The other act legalized similar action on the part of the county judge of Scott County.⁸³ In addition to these laws a joint resolution was passed by the Sixth General Assembly, instructing the Senators and Representatives from Iowa in Congress to urge the passage of a law prohibiting the introduction of convicts and paupers into the United States.⁸⁴

These acts have no bearing upon the general policy of poor relief. Incidentally they reflect the political strife which led one political party to make every effort to embarrass the county judge politically, and to suggest the possibility of corruption in the case of some of the county judges.⁸⁵

Poor relief, like many other problems of that day, was the plaything of politics rather than a concern which challenged the close consideration of legislators and public-spirited citizens. The poorhouse was an ancient, if not honorable institution which it was believed every county ought to have, along with the jail and the courthouse, as soon as the people could afford it. To supply this need sometimes the swamp land money, which at first was to be devoted to roads and bridges, was diverted to the building of such institutions. During this period may be discerned the beginnings of that unscientific attitude which still

continues in most places toward the county poor-house and which made it what it was then and still is to-day — the refuge of the hopeless, the death-house of the pauper sick, the winter home of the diseased vagrant, the last refuge of the broken-down prostitute, the asylum for the insane, the lying-in hospital both for the feeble-minded woman whom society failed to protect from its vicious and often feeble-minded members and also for the poor unfortunate girl, the victim partly of ignorance and partly of lust, and perhaps saddest of all, the home of some independent, high-spirited person whom misfortune or filial irreverence in his declining days left with only such a place in which to close his eyes in the last long sleep. Created because of such motives and developed in such a manner, is it any wonder that the county poorhouse has continued to be the most neglected subject of social legislation, not only in Iowa, but with a few exceptions, throughout the United States, and remains the despair of social students everywhere?

There was very little interest in the relief of the poor at this time on the part of any one, if one may judge by the lack of attention given to the subject in the public press. A careful search through various newspapers, covering the years when these measures were being enacted, fails to reveal any discussion of the large problem of poor relief. This, however, is not so surprising if one reflects upon the neglect which is the portion of that subject at the hands of the public press even to-day. Then, as now, it was an

uninteresting subject. No one went to see how the poorhouse was conducted, unless his official duties required it; and the average citizen dismissed the disagreeable subject from his mind with the consoling reflection that the city or county had such a place for those not able to care for themselves and that the county made provision in some cases for the care of certain classes of poor in their own homes.

The joint resolution just referred to is the first indication in the legislation of Iowa of a definite consideration of the causes of poverty. What part immigration played in causing the pauperism of that day it would be impossible to estimate. That the problem of poverty was pressing, however, is indicated by the fact that the proposed legislation was aimed at its prevention.

The provisions of the *Revision of 1860* require but little discussion. Absolutely no changes were introduced by this Code in the law relating to the relief of the poor except to incorporate the change which had been made in the meantime respecting the officer of administration. The county judge had given place to the county supervisors by an act approved on March 22, 1860. The only thing which was done with these sections of the Code was to insert in the first section definitions making the words "court" and "judge" as they appeared in the law mean "board of supervisors". The word "clerk" was declared to mean the "clerk of the board of supervisors" unless otherwise expressed and whenever the nature of the duty,

the time of its necessary discharge, or the rules to be made by the board of supervisors should so provide. The word "directors" was made to mean "directors of the poorhouse" in counties where such an institution had been established.⁸⁶

The act of March 22, 1860, overthrowing the county judge system, provided also that the supervisors should have authority to purchase for the county any real estate needed for the erection of buildings for the care of the poor and for a farm to be used in connection therewith. In case, however, the money necessary for this purpose amounted to more than \$2,000, the consent of a majority of the voters of the county must be secured.⁸⁷ All the powers hitherto possessed by the county court passed into the hands of the board of supervisors.

The period from 1860 to 1873, when the next Code was adopted, was marked by the Civil War. Out of this emergency grew certain laws which have ever since been retained in the legislation on poor relief in this State. The soldier and his dependents were the first to be exempted from the laws applying to ordinary pauperism; and these exemption laws represent the first real, humane thought given to the subject of poor relief in the history of Iowa. What the ordinary sentiments of humanity could not accomplish, gratitude to the soldier who was risking his life for his country and pity for his wife and children brought to pass in some degree.

Soon after the war broke out Governor Kirkwood,

in a special session message of May 16, 1861, referring to the promptness with which his appeal for men to fill a regiment had been met, urged that the State make provision to pay these men for their time between the day when they left their homes and the date when they were mustered into the service of the United States.⁸⁸ In this same message he reported that in most of the counties in which companies of volunteers had been raised, the boards of supervisors or public-spirited citizens had raised means for the support of the families of the men who had volunteered and had left their families dependent upon outside support. He suggested that it would be more equitable if this burden were borne by the State rather than by the counties from which the men volunteered.⁸⁹ The General Assembly did not see fit to embody this suggestion in legislation, but by an act approved on May 27, 1861, the acts of boards of supervisors or municipal corporations in making appropriations for the maintenance of families of soldiers were legalized.⁹⁰ Two days later an act was approved which empowered boards of supervisors to appropriate funds from the county treasury for the support of needy families of volunteers in actual military service either of the United States or of the State of Iowa, provided such families had been resident in the county at the time of the enlistment and were still resident in that county.⁹¹

As the war wore on the pressure of need on many families was not diminished but the need for more men in the army became apparent. To enable men

to go who felt the duty of remaining at home and supporting their families, Governor Kirkwood issued an appeal through the press of the State on August 5, 1862, urging boards of supervisors to meet in their several counties and take decided measures for the support of the families of those who might volunteer.⁹² On September 10th of the same year, in a special message to the legislature, the Governor urged that privates in the army be exempted from their taxes while they were in service.⁹³

A law approved on September 11, 1862, legalized appropriations made by the boards of supervisors of the various counties of the State and authorized them to offer bounties to be given to volunteers or to be used for the support of their dependent families. This act, furthermore, legalized the payment of these moneys either out of the ordinary county funds, or out of a special fund thereafter to be provided for, or out of the swamp land funds. The supervisors were also empowered to levy a special tax if the ordinary revenue was not sufficient for the purposes named, and any special tax which any county had levied before the passage of this act was legalized.⁹⁴

In his second biennial message, on January 12, 1864, Governor Kirkwood referred again to the necessity of furnishing aid in some way to the needy families of Iowa soldiers. He recommended that some systematic mode of furnishing such aid be provided by the legislature. To a certain extent the General Assembly followed this suggestion in an act approved on March 28, 1864, legalizing certain taxes levied by

county boards of supervisors for the payment of bounties and for the support of families of soldiers.⁹⁵

On March 28, 1864, however, an act was approved which went still further in its provisions for the relief of the families of soldiers, including the families of non-commissioned officers and musicians as well as privates. It authorized each county to levy a tax of not less than two mills on the dollar in 1864 and 1865 for that purpose. The assessors were to enumerate all soldiers and marines having families, and all who had been in the service and were dead or disabled; and they were to designate such of these families as in their opinion were in need of aid. The supervisors were then to distribute the funds, giving not more than \$150 to any one family in any year. All special funds raised before that time for the relief of the families of soldiers were to be turned into this fund. The supervisors were authorized to borrow from other county funds, except the school fund, for the purpose of caring for soldiers' families, in anticipation of the money expected from the special tax.

The fund thus created was known as "the relief fund" and was destined to play a part in the future of poor relief in Iowa of which it is probable that its originators never thought. To prevent abuses in the distribution of this fund a family was defined as "only a wife, dependent children under the age of twelve years, brothers and sisters under the age of twelve years, aged and infirm dependent parents."⁹⁶ An indication that in some counties at least the fund abundantly supplied the need is to be found in an act

of the Eleventh General Assembly, approved on March 12, 1866, which provided that county supervisors might transfer to any other county fund as much of the relief fund as was not needed. On the other hand, it was stipulated that in the counties where past legislation for this purpose had not been sufficient, the supervisors could levy for the years 1866 and 1867 an additional tax of not more than one mill for that fund. All moneys raised in this manner, however, were to be expended in accordance with the provisions of the act of March 28, 1864.⁹⁷

Just as the national pension fund for old soldiers, now so overgrown and sometimes abused, grew out of the great wave of gratitude and patriotic sentiment following the close of the war, so this method of providing relief for the families of Iowa soldiers sprang out of the helpless suffering entailed upon them by the absence of their natural supporters who were fighting for the life of the nation. The large number of legalizing acts, special tax acts, and extraordinary measures stretched the law-making power to its utmost, but ample justification was to be found in the dire necessities which broke up the ordinary relations of life and made those dependent who in other times would have been independent of public help. Without doubt in the end these measures proved demoralizing to many families and laid the foundation of dependency in after years. Such a result, however, was an incident due partly to the politician who saw an opportunity to make capital for himself by transforming a perfectly legitimate con-

cern for the family of the soldier into a pauperizing influence, and partly to the weakness of individuals who were unable to preserve the spirit of independence when once the form had temporarily been given up.

Thus, in the Civil War legislation originated the soldiers' relief fund still to be found in almost every county in the State and in many of the States of the Union. Beginning as a special kind of relief for a special class it has continued with but little change down to the present day. It remains chiefly because it has not the stigma attached to it which has characterized ordinary out-relief. The memories of heroism, which those related to the recipients left in the minds of the people who lived through the great struggle, have deprived the acceptance of money from this fund of the shame of pauperism. Furthermore, it should be noted that this series of acts marks the beginning of legislation for special classes of dependents.

By an act approved on April 3, 1868, the power of forcing relatives to support their dependent kindred was taken out of the hands of the supervisors and vested in the circuit courts, thus placing this feature of poor relief once more under the jurisdiction of the court authorities, as in the *Code of 1851*.⁹⁸

Further modifications of the existing law which were made by an act of April 6, 1868, are important because they put into final form certain provisions for the outdoor relief of the poor. This act provided that the city council of any incorporated city

of the first class and the township trustees of any township in the State were authorized and required to furnish relief for such persons as should not in their judgment be sent to the county poorhouse, provided that the amount paid for their support should not exceed two dollars per week for each person for all their necessities — food, rent, clothing, fuel, lights, or money — exclusive of medical attendance. It was further prescribed that no widows or families of Iowa soldiers, or other persons who were sustaining family relationships, should be sent to the poorhouse when they could be, and preferred to be, relieved in the way and to the extent just mentioned. The money necessary to carry out these provisions was to be paid out of the county treasury after the proper account had been rendered therefor and approved by the supervisors. Moreover, the law required the necessary appropriations to be made by the counties to carry out these provisions, but the supervisors had the power to limit the amount of relief to be furnished in each case and could refuse to continue the relief when in their judgment it was no longer required.⁹⁹

This law received enthusiastic support from the leading State paper of the time, *The Iowa State Register*.¹⁰⁰ Partly the product of a principle long recognized in a minor way, and largely the fruit of the effort to relieve the needs of soldiers' families, this act frankly introduced out-door relief for the dependents of soldiers and for those having family relationships. While this method of relief had been

permitted from the organization of the Territory, it was now first required in the cases of the dependents of Iowa soldiers and of dependents in families to the exclusion of the time-honored poorhouse. This law also introduced the principle of free medical attendance into poor relief legislation.

One legalizing act was passed at the session of the legislature in 1870. The board of supervisors of Story County had appropriated five thousand dollars for the purchase of land for a poor farm and two thousand dollars for the erection of a poorhouse. For this purpose they had issued county bonds at ten per cent interest. An act approved on March 25, 1870, legalized these proceedings.¹⁰¹ During the session of the General Assembly in 1872 a similar law was passed legalizing the acts of the supervisors of Poweshiek County in appropriating \$3,500 for the purchase of buildings and grounds for a county poor farm.¹⁰²

The *Code of 1873* differed materially from the *Revision of 1860*. The latter was simply a compilation of the existing statutes in addition to the *Code of 1851*, without any attempt to eliminate inconsistencies where such existed, or to revise the arrangement or the wording in order to make the law either more intelligible or to make it conform to the decisions of the Supreme Court. On the other hand, the commissioners who drew up the *Code of 1873*, in their last report to the legislature not only brought the law up to date by including the acts which had been

passed since the enactment of the *Code of 1851*, but they revised and rearranged the laws so that inconsistencies were eliminated, errors which had crept in were corrected, and the laws were rewritten when that was necessary in order to bring them into line with court decisions, to secure a clearer statement, or to make them better serve the public welfare.¹⁰³ Basing their revision frankly on the *Code of 1851*, and ignoring almost entirely the *Revision of 1860*, the commissioners set themselves to the task of making the new Code contain the law as it actually existed in Iowa, as interpreted by the Supreme Court, and arranged as they thought it ought to be in order to render the largest service to the people of the State, without changing the intention of the laws then on the statute books.

Judge William G. Hammond, then Chancellor of the Law Department of the State University, wrote parts one and two, within which are to be found the sections relating to the care of the poor. Nothing can make as clear the changes which were made in the existing law as the copy of the *Report of the Commissioners, 1873*, in which the laws on poor relief as they then existed were printed in the ordinary Roman type and the proposed changes in italics. In this *Report* at the end of each section there is a reference which shows where the section was obtained or, if the section originated with the commissioners, stating their reasons for the change.¹⁰⁴

Various changes were proposed by the code commissioners. They suggested the making of a dis-

inction between near relatives and distant relatives in the support of paupers, and the compelling of relatives to support paupers no matter from what cause the latter became indigent. Again, they proposed that not only the trustees, but also any other officers who had charge of the poor, should be required to apply to the circuit court to enforce support by relatives; and that the wife should be made jointly responsible for the support of those naturally dependent upon the heads of the family. A very important change in the law was suggested whereby, instead of giving the city council charge over out-relief in cities of the first class and thus making possible a conflict between the city and the county authorities, the supervisors were given authority to appoint overseers of the poor in cities of the first and second classes. Other recommendations were: the abolition of boards of directors for poorhouses, since in no county of the State, according to the *Report of the Commissioners* had such boards actually been organized; the requirement that the support of the poorhouse be made one of the regular disbursements from the county funds; and the elimination of a number of the sections of the *Revision of 1860* which seemed to the commissioners either useless or confusing.¹⁰⁵

The most important of these proposed changes were adopted by the General Assembly *in toto*, while the alterations actually made in the proposals of the commissioners were not numerous. The legislature added a clause to section eight of the bill of the commissioners providing that no person should be sent

to the house of a relative if the latter was willing to pay the amount necessary for his support elsewhere. The clerk of the circuit court was substituted throughout for the court itself in the administration of the law. In providing free medical services for the poor, the legislature added the statement that the practitioner was to charge the county no more than was usually paid for such services in the neighborhood. It also added a clause to the section devoted to the outdoor care of the county poor in each township by the township trustees, which was in line with the attempt of the Code to put the control of the poor more fully into the hands of the supervisors, by stating that the trustees were to care for all needy persons "until provided for by the board of supervisors". Again, a trustee or an overseer was forbidden to draw an order upon himself or a member of the board for supplies for the poor unless he had a contract to furnish such supplies; and there was a provision for the bonding of the contractor for the care of the poor. For the first time in Iowa history, legal sanction was given to the appropriation of the receipts from the poor farm to the use of the poorhouse — a provision which doubtless simply recognized in law a long-established practice. Finally, the legislature changed the ages up to which pauper children could be bound out from "twenty-one" for males and "eighteen" for females, as suggested by the commissioners, to "eighteen" and "sixteen" respectively.¹⁰⁶

The *Code of 1873*, therefore, differs from the *Code of 1851* chiefly in having the supervisors instead of the county court as the poor relief authorities; in substituting the sheriff and supervisors for the directors of the poorhouse; in permitting the appointment of overseers of the poor for cities of the first and second classes; in providing out-relief for the families of Iowa soldiers and for any other persons who preferred to be supported at home at a cost of not more than two dollars per week, rather than go to a poorhouse; in simplifying the laws of settlement so far as they related to removal of those who had no legal settlement in the counties of the State; in providing for bonds to insure the support of paupers by relatives; in introducing supervision over the contractor for the care of the poor; and in certain verbal changes making for greater definiteness.¹⁰⁷

Without a doubt the provisions of the *Code of 1873* with reference to the relief of the poor were more definite and better adapted to the circumstances of the State than any enacted in Iowa up to that time. They contained a definite clause concerning support of paupers by relatives more closely drawn than any existing hitherto, laws of settlement based upon the *Code of 1851* but more closely fitted to conditions in Iowa; provisions for the temporary support of persons who had no settlement and for the support outside of the poorhouse of persons who had family relationships, and sections providing for the support

of others in the poorhouse, especially those who had no families, and for the care of soldiers' orphans in special institutions.

The fact that the *Code of 1873* contained the best legislation for the relief of the poor that Iowa had ever had did not prevent an attempt to revise its provisions at the very next session of the General Assembly.¹⁰⁸ No change was actually made, however, until 1876, when the provisions of the law were extended to families of all Union soldiers, whether Iowa soldiers or not; and, in addition to the supervisors provision was made for overseers of the poor as relief authorities. The overseers, however, were to work under the direction of the supervisors.¹⁰⁹ In 1878 the law was amended so as to include soldiers as well as their families.¹¹⁰

At the session of the General Assembly in 1876 several bills were introduced dealing with the subject of pauperism, but they failed to pass.¹¹¹ During that same session, however, an act applying only to counties having a population of not less than thirty thousand provided that the expense of supporting the poorhouse should be paid out of the county treasury in the same manner as other county funds were disbursed, and that if the ordinary revenue of the county was insufficient for the support of the poor, a special tax not exceeding one and a half mills might be levied by the board of supervisors for the purpose.¹¹²

In 1878 provision was made for paying to the

various school districts in which poorhouses were located a proportionate part of the tuition for the education of such pauper children as might be in the poorhouse.¹¹³ By an act of March 25, 1880, cities with special charters were given the same right as cities of the first and second classes to have special overseers of the poor appointed for them. The last part of the section of the Code providing against excess charges for medical service to the poor was eliminated; and a provision was added that enabled the trustee or overseer to require labor from any applicant or any member of his family, if able to work, in exchange for relief. Work on the highway might also be required of any "transient persons who appear needy" and who were given relief.¹¹⁴ A law approved on April 10, 1888, gave the county supervisors more direct control over the relief supplied by the trustees. This was secured by authorizing them to examine the claims for the cost of poor relief, including medical attendance, and to reduce the claims if they found that relief other than the bare necessities of life had been provided.¹¹⁵

At the extra session of the legislature in 1897, by an act approved on May 4th, the *Code of 1873* and the acts of the Twenty-second General Assembly were amended by striking out the provision that the county supervisors could levy a tax of a certain number of mills for county purposes, "including the support of the poor".¹¹⁶ This change in no wise affected the support of the poor. It served only to eliminate the possibility of misunderstanding and

bring the statute into line with the expressed policy of requiring that the cost of poor relief in counties having a population of thirty thousand inhabitants or over should be paid out of the regular income of the county.

Besides these general laws, three legalizing acts were passed during the interim between 1873 and 1897. One of these, adopted in 1882, legalized the act of the supervisors of Wapello County in selling the old poorhouse and paying a definite sum for a new one without first submitting the question to the voters.¹¹⁷ Another, approved on April 1, 1892, legalized the acts of the supervisors of Lee County in levying annually since 1876 a special tax of one and a half mills for the support of the poor.¹¹⁸ And the third, a law of a more general nature, approved on April 17, 1897, legalized the practice of boards of supervisors in levying from year to year taxes for the county revenue and for the support of the poor at the same time.¹¹⁹

The act creating the code commission which prepared the *Code of 1897* gave that body wide powers. It stated that the commission "shall carefully revise and codify the laws of Iowa, and shall rewrite the same and divide them into appropriate parts and arrange them under appropriate titles, chapters, and sections; omit all parts repealed or obsolete, insert all amendments and make the laws complete." Moreover, the commission was given "power to transpose words and sentences, arrange the same into

sections or paragraphs and number them, change the phraseology and make any and all alterations necessary to improve, systematize, harmonize and make the laws clear and intelligible.”¹²⁰

Under the terms of this law the members of the commission felt that they had large powers in re-writing the laws so far as such work would improve their phraseology and make them more clear and intelligible, but they did not think that they had any power to make alterations in the meaning of laws; and so the changes which they made were merely verbal.¹²¹ They found, however, that much in the old Code and in the more recent statutes might be omitted as superfluous. In rearranging the sections and making them clearer they often so changed and transposed words and sentences that practically the whole section was underscored in their report, indicating changes, but only changes in the phraseology or order of words without any alteration in the meaning.¹²²

In accordance with this policy, no real changes were proposed in the first six sections of the chapter on poor relief as found in the *Code of 1873*, except that those alterations made by the General Assembly between 1873 and 1897 which the commissioners considered essential were incorporated. Sections one to six of this chapter in the *Report of the Commission* correspond substantially with sections 1330 to 1349 in the *Code of 1873*. Sections seven and eight “provide for the recovery from the poor person himself, or his relatives, or his estate for the

support furnished, and impose a limitation on the time of enforcing such claim. But it is provided that this limitation as against the poor person himself shall not commence to run until he is able to pay."

It was proposed that the time of residence necessary to acquire a settlement be changed to six months, the time required to secure the right to vote. The provisions for recovery by the county supplying the relief from the county of settlement in cases where relief was given to non-resident paupers were consolidated, but otherwise left unchanged. The furnishing of outdoor relief was made subject to rules to be adopted by the supervisors of the county, and the provisions of the section were so changed as to apply also to a city situated in two counties, while a clause was added forbidding officers to have any personal pecuniary interest in the furnishing of supplies to the poor. The provisions of the law of the Eighteenth General Assembly, conditioning support on performance of labor on the public highway, were excluded, except in the case of transient paupers, from the recommendations of the commissioners as of no practical effect, inasmuch as such conditions were never imposed, and if they should be, there was no available machinery by means of which such labor could be made effectual. It was made discretionary with the board of supervisors whether or not persons in families should be sent to the poor-house. Moreover, the ultimate control of the super-

visors in the entire field of poor relief was definitely provided for.

The *Report of the Commission* provided that a contract might be let either for supplies or for support, as the board of supervisors might determine, but in either case it was to be let to the lowest bidder. The commissioners proposed that only in cases where an expenditure of more than five thousand dollars was involved should a vote of the people be required, rather than in all cases as was prescribed in the *Code of 1873*. Again, the definition of a poor person was so stated that a person who had some means might be aided without requiring, for example, that he sell a homestead before aid could be given him. Finally, the section relating to the binding out of poor children was transferred from this chapter to the chapter on apprenticeship.¹²³

Only a few important changes were made by the legislature in the proposals of the commissioners. The length of time necessary to gain a legal settlement was left at one year as provided in the *Code of 1873*, rather than at six months as recommended by the commissioners. The provisions of the previous Code to the effect that in exchange for relief an able-bodied person might be required to labor on the streets or highways at five cents per hour under the direction of those having charge of working such streets or highways were retained; and some slight modifications were made in the part relating to the review of the expenditures of township trustees and

overseers of the poor by the supervisors, in order to make this function conform more closely to the previous practice than to the plan recommended by the commissioners.¹²⁴

The *Code of 1897*, therefore, made no radical changes in the method of poor relief. The only important change was to concentrate power more completely in the county supervisors, a step which was in line with the tendency toward the centralization of administrative authority — a tendency which has prevailed ever since. Every State which is attempting to solve the problem is centralizing the administration of poor relief. The *Code of 1897* shows the growth of the social consciousness with respect to the increasing inadequacy of the old methods to cope with the changing problems.

The ten years from 1897 to 1907, when the second supplement to the *Code of 1897* was published, witnessed no changes in the laws relating to the relief of the poor — the only ten year period in the history of the State of which such a statement could be made. This period is marked by the growth of other social legislation, but decreasing attention was paid to the care of the poor. Perhaps despair at the results of the former methods of treating the problem of poverty caused the legislature to turn from legislation aimed at the cure of poverty to laws for the removal of the causes of poverty, and the treatment of such causes through the juvenile court and

other means of a similar character which will be taken up in detail in subsequent chapters.

The only act passed by the Thirty-second General Assembly in 1907 bearing upon this subject was one to legalize the action of the supervisors of Chickasaw County in proceeding with the construction of a poorhouse without submitting to the people the question of whether or not they should expend not to exceed \$25,000 for such a purpose.¹²⁵ The Thirty-third General Assembly in 1909 changed the amount of the tax which the supervisors might levy for the care of the poor from one to two mills on the dollar.¹²⁶ In this same year the name of the county institution for the poor was changed from "poorhouse" to "county home",¹²⁷ in the vain hope that a change of name might change the character of the institution. The Thirty-fourth and the Thirty-fifth General Assemblies have left untouched the subject of caring for the poor either through the "county home" or by means of outdoor relief.

During the period from 1897 to the present time, while attention has been focused less and less upon the poorhouse and outdoor relief, a vast amount of legislation for the poor of various classes — such as soldiers and their dependents, defectives whose relatives can not afford to pay for their care and education, and children and widows with children — has been enacted. Moreover, during this period there has been noticeable a strong tendency towards the

centralization of authority in the care of dependents. This tendency has not gone so far in Iowa as in some States of the Union, but the Board of Control of State Institutions has been given supervision over those county institutions in which insane are kept, in addition to the management of the State charitable and correctional institutions.

Furthermore, there has been a growing realization within this period that poverty and pauperism are not isolated problems, but, on the contrary, that they are interwoven with all kinds of other social problems, such as vice, crime, housing, inadequate health regulations, neglected children, industrial neglect, lack of a workman's compensation act, and a number of other unfortunate social conditions.

The problem of the relief of poverty has become much more complicated than it was formerly. With a study of its causes, the State has come to see that no mere palliative like the "county home", however good, will meet the situation. On the other hand, there has not yet developed an appreciation of the possibilities wrapped up in the scientific treatment of paupers in an institution constructed for the purpose of the rehabilitation or permanent segregation of those who are in the working period of life and for the proper care of the aged and infirm. The legislators of Iowa have not come to a realization of the fact that unsystematic out-relief is a pauperizing influence, and that both a properly conducted poorhouse and properly administered out-relief can do much to stem the tide of pauperism, as the ex-

perience of Indiana since 1897 clearly shows. In Iowa there has been no careful consideration of the problem of caring for the poor in a way that will make for cure and prevention, except as legislation has taken other directions — as for instance in the juvenile court statute, the mothers' pension law, the workman's compensation act, and other laws looking towards the removal of the economic and social causes of poverty. These measures will be taken up in the following chapters so far as they touch the treatment of special classes of dependents, or bear upon the growing emphasis which is being placed on the prevention of poverty — both of which movements are characteristic of recent legislation dealing with the problems of poor relief.

PART II

SPECIAL PHASES OF POOR RELIEF
LEGISLATION IN IOWA

VI

THE LAW OF SETTLEMENT

The law of settlement in force when Iowa became a State was borrowed: the principle that a dependent person must be supported by the legal unit in which he has a residence is as old as the legislation of Henry VIII.¹²⁸ That principle, as has been seen, was recognized almost universally in the legislation of the States and Territories from which the legislators of Iowa obtained their ideas concerning the relief of the poor, and it was well established in the poor relief legislation of the Middle West. Up to the legislation of 1842 the Territory of Iowa, following the example of Wisconsin, retained the county as the relief unit and therefore as the unit of settlement.¹²⁹ When, however, in 1842, there was enacted a new law, borrowed verbatim from Ohio and originating in England, the Legislative Assembly took over the mixed system of Ohio — the county and township systems combined — and made the township, rather than the county, the unit of settlement.¹³⁰ The *Code of 1851* changed the unit back to the county,¹³¹ where it has remained down to the present time.

The length of residence necessary to gain a settlement has, from the Territorial days, been one year.

The time necessary to reside in a county in order to gain a settlement after being warned to depart has been a year in every law with the exception of the act of 1842, which provided for a three years' residence. An unsuccessful attempt was made by the code commission in its report in 1896 to have the time of residence necessary to gain a settlement, either upon first coming into the State or after being warned to depart, reduced to six months — the time necessary to gain the franchise.¹³² The legislature, however, retained the time-honored period of one year.¹³³

The *Code of 1851* retained the provision of the Territorial act of January 16, 1842, first introduced into the Ohio statutes in 1831, that only white persons could obtain a settlement.¹³⁴ But the Civil War made it impossible to retain this provision in the *Code of 1873*. The code commissioners changed the wording in accordance with the amendment made by the Tenth General Assembly in 1864 so that instead of reading "any white person having attained majority", it read "any person having attained majority", and the legislature adopted the change as suggested. Since that time this provision has remained undisturbed.¹³⁵

The *Code of 1851* provided that a married woman, abandoned by her husband and having obtained authority to act as a single person, might acquire a settlement as if she were unmarried. The code commission of 1873 omitted the qualifying phrase; and its recommendation on this point became the

law, thus precluding the necessity for court action before a woman deserted by her husband could obtain a settlement. Since 1873 this section of the law has remained unchanged.¹³⁶

Provisions concerning the settlement of children were first introduced into Iowa law in the *Code of 1851*, which provided that a legitimate child should follow and have the settlement of his father, if his father had acquired a settlement. If the parent was without a place of legal settlement, then the status of the child should be that of his mother. An illegitimate minor child should follow and have the settlement of his mother except when she had none, in which case the place of settlement of the child should be that of his putative father.¹³⁷ The only change since made in these provisions was the insertion in the *Code of 1873* of the word "minor" before "legitimate" in the section relating to the settlement of legitimate children, in order to make explicit what was undoubtedly the original intention of the framers of the *Code of 1851*.¹³⁸ The minor whose parents had no settlement in the State has shared with the married woman living apart from her husband the privilege of acquiring a settlement by a year's residence in the county since the introduction of this provision into the *Code of 1851*.¹³⁹

Before 1851 the only provision for the settlement of minors pertained to minor apprentices legally brought into the Territory or State. By the provisions of the Territorial law of February 16, 1842, such minors, as well as other apprentices and in-

dented servants, acquired a settlement after a three years' service in any one place.¹⁴⁰ The *Code of 1851* provided that any minor bound as an apprentice should obtain the same settlement as that of his master immediately upon becoming an apprentice; and this provision has never been changed.¹⁴¹

The epoch-making *Code of 1851* introduced also the definite provision that a settlement once acquired continued until it was lost by acquiring a new one. This section, again, the code-makers and the legislators have left undisturbed in the law of the State.¹⁴²

Thus, in all but a few minor details the *Code of 1851* has determined the law of settlement for the State of Iowa during the major part of its history. The framers of that Code apparently gathered the laws of settlement from many States and Territories, and especially from New York, and adapted them to the situation in Iowa by freely modifying and supplementing them with original provisions.

The regulations concerning the removal of such persons as were, or were about to become, public charges, but who had no settlement in the place where found, were based largely upon the experience of the Northwest Territory, Ohio, Michigan, and Wisconsin.

In the preceding pages it has been shown how the legislation on the subject of poor relief fluctuated from relative simplicity in the earlier acts of the Northwest Territory to extreme complexity in the

laws enacted in Ohio about 1830. From that extreme there was a reaction in the legislation of the new Territories of the West during the next twenty years toward the simplicity found in the law of Wisconsin Territory. This act was copied in the first law of the Territory of Iowa, but was superseded by the complex law copied almost verbatim from the Ohio statute of 1831. In the section relative to the removal of a pauper who had no legal settlement, however, the two laws were remarkably alike, provision being made for the removal of the person to the place of his legal settlement or for a warning to him to depart. Record of the warning was to be made in order that it could be determined whether the pauper had lived in a given place the length of time necessary to gain a settlement after the warning had been given. In the law of 1842 the length of time which a person must remain, without being warned again to depart before he gained a settlement was three years; while in the *Code of 1851* this period was reduced to one year — a provision which has been retained ever since.

According to the Territorial law of 1842 the township overseers of the poor issued the warning to depart, which warrant was served by the constable and returned to the clerk of the township to be recorded.¹⁴³ By the terms of the *Code of 1851*, the warning in writing was to be issued by the township trustees, or the directors of the poorhouse or the county judge, and might be served by any person, but the person

serving it must report to the person issuing it, and if not served by a sworn officer, such service must be verified by an affidavit.¹⁴⁴

A person making application for relief could be removed on the order of the county judge issued to a township trustee or a director of the poorhouse in the county where he had a legal settlement, written notice being given to the county judge or clerk of that county. Or the judge of the county where the pauper applied for relief might notify the judge of his county of settlement that such a person was a county charge. Then it was the duty of the latter to remove him or see to his care.¹⁴⁵ The *Code of 1851* also contained provisions for the payment of all reasonable charges incurred in the temporary relief and removal of non-resident paupers, for appeals from the order of the judge of the county where the pauper applied to the district court, and for change of venue.¹⁴⁶

The only changes made in these provisions by the *Code of 1873* were those due to the change from the county judge system to county government by supervisors, and two changes in the interest of greater definiteness. The order of removal was to be issued by the township trustees or the county supervisors, written notice was to be given to the county auditor instead of the county judge or clerk, the return of service was to be made to the supervisors, and the county auditor took the place of the county judge in notifying the auditor of the proper county that the pauper in question was a public charge. Appeal was made to the circuit, rather than to the district, court

— a change due simply to an alteration in the court system. The order for removal was binding unless the county, so notified within thirty days served notice on the county issuing the order of an intention to contest the order.

In case of an appeal there was added to the issue of whether the pauper had a settlement in the county to which it was proposed to remove him, one other question to be determined, namely, whether the amount claimed by the county seeking his removal had been actually and properly expended. In addition to this the burden of proof was placed upon the county seeking to make the removal.¹⁴⁷

The *Code of 1897* introduced some minor changes. The county from which the pauper, receiving temporary relief, had come must notify the county granting relief within fifteen days if it intended to dispute the claim to settlement.¹⁴⁸ If the claim to settlement was disputed, then within thirty days after the notice above provided for the county seeking the removal of the pauper must file in the district court of the county disputing the claim a copy of the notices sent and received.¹⁴⁹

In the course of the history of the law of settlement in Iowa certain changes of emphasis have taken place. In the *Code of 1851* the emphasis was upon removal, as it was in the early laws of Ohio and in the Territorial statute of 1842, while the notification of the authorities in the county of settlement was incidental. In the *Code of 1873* and the *Code of 1897*

the emphasis was changed: the process of removal is mentioned only incidentally, while the notification of the county of settlement and the legal procedure on the part of the county of settlement and the county seeking to remove the pauper, are very much amplified. So well established has the principle of removal become that little has needed to be said about that subject in the later statutes.

It is a cause for regret, however, that so much emphasis has been laid in the poor laws of Iowa upon settlement and removal. English experience had long before shown that the introduction of the law of settlement was a serious blunder. It interfered with that mobility of labor so necessary to economic readjustment, while it did not prevent the vagabondage it was intended to circumvent¹⁵⁰ and which must be dealt with in quite another manner. It was feared, when the law of settlement was introduced into English law in 1662, that unless some such provision were made the poor would flock to the place offering the most abundant opportunity for unearned sustenance. Such a condition did prevail then, as it does to-day, when poor relief is indiscriminating and unorganized. But when relief is provided only after careful investigation and on a work test, or when the methods of scientific relief are rigidly applied, paupers will, as a rule, go for relief to places where they can be supplied by the old-fashioned, unscientific methods. In short, the law of settlement works a hardship to-day upon the honest, unpauperized poor; while the person with the pauper spirit is able

to secure a living without work, the law of settlement to the contrary notwithstanding, except where scientific methods of relief are in vogue. If there were no law of settlement only those communities would suffer which are indiscriminating in their relief of the poor; while the communities which have adopted the best methods of relief would be rid of the "hobo" and the pauper.

VII

COUNTY RELIEF OFFICIALS

THE COURT

According to the provisions of the *Code of 1851* the principal relief official was the county judge. It was he who issued the warrant to remove a person coming from another State who had not yet acquired a settlement in Iowa and who had fallen into want and applied for relief. It was the county judge or the township trustees or the directors who issued in writing the warning to any persons who it was thought might become county charges. It was the county judge who issued the order for the removal of a person who had no settlement and had applied for relief; and to the county judge of the county where the pauper had a legal settlement written notice was given of the intention to remove him thither. The county judge notified the judge of the county where the pauper had a legal settlement that such a person was a county charge; and it was the duty of the judge of the latter county to order the removal of the pauper or to provide for his care in the county where he had applied for relief. Furthermore, the county judge was authorized to make an appeal to the district court if he had reason to believe that the pauper had no legal settlement in his county.

Again, it was the county judge to whom the township trustees, after satisfying themselves that the applicant was in such destitute condition as to require relief at public expense, reported the case. He was authorized to deny further relief if he found cause. All claims and bills for the support of the poor had to be certified by the proper trustees and presented to the judge, by whom they were allowed if he was satisfied that they were reasonable and proper. He also had the power at his discretion to allow to paupers of sound years and mature mind who would probably be benefited by such a procedure, such sums or annual allowances in cash as would not exceed the charge of their maintenance by the ordinary method. The judge might be appealed to from the decision of the trustees in case they refused relief to an applicant, and he had the power to direct the trustees to afford relief. It was the county judge who let the contract for the care of the poor to the lowest bidder if he thought it expedient to do so. It was he who appointed that remarkable official whose business it was to ascertain and report to him the manner in which the poor were kept and treated. If, upon due notice and inquiry, the judge found that paupers were not reasonably and properly supported, treated, or cared for, he had the power to set aside any contract at any regular session of the court.

The county judge was also authorized to order the erection and establishment of a poorhouse, and to purchase land for that purpose; and he was invested with full authority to make all the necessary

contracts. The only limit upon his power in this respect was that he should first estimate the cost and submit the question of making such an expenditure to a vote of the people at some regular election. The judge had discretionary power to appoint directors of the poorhouse, and it was his duty to fill vacancies in the board of directors. If he decided not to appoint directors, he himself was invested with all the authority usually conferred on directors in overseeing the poorhouse. He had coördinate powers with the township trustees, or the directors of the poorhouse to admit by written order an applicant to that institution. It was to the judge that the directors of the poorhouse reported once a year a full account of the condition of the institution, of their contracts, disbursements, and proceedings. The county judge issued the order for the payment of all expenses of maintaining the poorhouse on certificates filed by the directors. In case the ordinary county revenue proved insufficient, he was empowered to levy a poor tax of not exceeding one mill on the dollar. He might allow the directors whatever sum he deemed reasonable for their services not exceeding one dollar and a half a day, and he had the authority to lease out the poorhouse and the care of its occupants for a period of not more than three years.¹⁵¹

With the abolition of the county judge system in 1860 and the substitution of the circuit for the county court, the work of the court in the relief of the poor became a mere bagatelle compared with its importance under the *Code of 1851*. All the powers of the

court and its clerk were now placed in the hands of the county supervisors and their clerk. By an act approved on April 3, 1868, however, the compelling of relatives to support paupers was placed in the hands of the circuit court — a provision which has remained practically unchanged. Thus, the *Code of 1873* prescribed that the circuit court might be applied to in order to compel relatives to support paupers, and the *Code of 1897* gave the same jurisdiction to the district court. The court procedure in this respect, however, remained nearly the same as outlined in the *Code of 1851*.¹⁵²

Only a few changes were made in the procedure. For instance, in cases of the seizure of property to compel support of paupers by relatives either the clerk of the court or the judge, instead of the judge alone, might issue the order for seizure, and instead of such order being issued to the township trustees or the directors, it was issued to the trustees or the sheriff. The duty of issuing the order, however, still remained with the court and its clerk.¹⁵³ Moreover, the clerk of the circuit court took over the duties of the county judge in respect to such an order in case the absconding person returned and gave security against his dependents becoming chargeable to the county.¹⁵⁴ According to the *Code of 1897* the district court remained in charge.

A few slight changes in addition to those just mentioned were introduced in the procedure to compel relief by absconding natural supporters. The township trustees dropped out as alternate author-

ities to seize the property of the one absconding, and an appeal from the decision of the lower court touching the support of pauper relatives was definitely stated to lie to the Supreme Court. Moreover, a time limit was put upon the bringing of an action by the county against the person himself or his relatives or estate, or by a relative against a nearer relative, for the support of a poor person. In the case of action against the person himself it must be begun within two years after he became able to pay; if against his estate, the claim must be filed according to the law governing claims against the estates of deceased persons; and if against relatives for his support, or if against a nearer relative by one more distant for support given, action must be commenced within two years after the relief was supplied.¹⁵⁵ In the *Code of 1897* the court or judge, as in the *Code of 1873*, was inconsistently retained to issue the order removing a pauper who had no settlement to the place from whence he came, while the actual removal of paupers was placed under the authority of the township trustees or the supervisors. In the *Code of 1851* removal could be made by the latter officials, or by the court or judge.¹⁵⁶ Aside from the provisions forcing relatives and natural supporters to maintain paupers and those concerning the removal of paupers, scarcely anything remained of the former power of the court in the relief of the poor after 1860. The other powers of the county judge had been distributed between the board

of supervisors, the trustees of the township, and the county auditor.

THE BOARD OF SUPERVISORS

When the county judge gave place to the board of supervisors by the act approved on March 22, 1860, most of the powers of the county judge with reference to poor relief were taken over by the supervisors. Ever since that time these officials have carried on the major part of this work.

The supervisors assumed the court's function in issuing the warning to the pauper who had no regular settlement, but the power of ordering the removal of a pauper to the county of his legal settlement remained with the court. The board of supervisors discharged the duties formerly incumbent upon the county judge relative to the expenditure of money from the county treasury on behalf of the county and examined and approved all bills presented by township trustees for the care of the poor. They allowed the bills presented by the township trustees, and they granted cash sums to such persons as they chose under the same conditions as had governed the county judge. It was to the supervisors that appeal from the decision of township trustees was now made. It was they who let contracts either for the farming out of the poor or for the building of a poorhouse. They also took over the functions of the judge in making purchases for the poorhouse and in prescribing rules and regulations for the management of the same. Upon their

written order admission was made to the poorhouse. They levied a special tax for the support of the poor in case the ordinary tax was not sufficient. If they thought best, they let out the occupancy of the poor farm and the care of the inmates for a period of not exceeding three years. They, or the county auditor, arranged for the maintenance of a pauper in one county when he had a settlement in another, if such a plan was satisfactory to the authorities in the county seeking his removal. Moreover, they were given authority to appoint in any city of the first or second class embraced within the limits of a township an overseer of the poor for that city. This was a modification of the act of April 6, 1868, which gave to the city council coördinate power with the township trustees in administering relief to the poor in their city who, in their judgment, should not be sent to the poorhouse.¹⁵⁷

In addition to these duties the *Code of 1897* invested the supervisors with the oversight of the relief rendered by the township trustees to such poor persons in each township as in their judgment should not be sent to the poorhouse. It forbade, furthermore, any supervisor or township trustee to be directly or indirectly interested in any supplies furnished the poor.¹⁵⁸ It made it discretionary with the supervisors whether they should relieve persons and families, other than soldiers and marines, outside the poorhouse. Any able-bodied applicant for relief might be required to labor on the streets or highways at the rate of five cents an hour.¹⁵⁹

The *Code of 1897* also made the out-relief furnished by the township trustees subject to the approval of the board of supervisors, by requiring the trustees to report all such cases at once to the supervisors.¹⁶⁰ Probably because the former statute on the subject had not been enforced provision was made for the appointment by the supervisors of a person to examine and report concerning the methods employed by a contractor in caring for the poor, whether the contract was for the care of all the poor or for certain individuals.¹⁶¹ It strengthened the control of the board over the contractor in the interests of paupers employed by the latter by making the supervisors rather than the township trustees more explicitly responsible for the welfare of such persons.¹⁶² It made it necessary for the supervisors to obtain the consent of the voters for the purchase of a poor farm or the erection of a poorhouse only in case the estimated cost was above five thousand dollars.¹⁶³ On the theory that only sick people, or those who for other reasons were unable temporarily to work, were in the poorhouse, it also made it obligatory, not merely permissive, as in the *Code of 1873*, for the board to order the discharge of a pauper when he became able to support himself.¹⁶⁴ The *Code of 1897* also amplified the duties of the supervisors by providing that they should examine all claims, including bills for medical attendance allowed by the township trustees, for the support of the poor, and they were given the authority, if they found the amount allowed to be unreasonable or ex-

orbitant or for any goods or services other than the necessities of life, to reject or diminish the claim as they thought proper. This provision applied not only to the counties which had poorhouses, but also to those in which relief was supplied by other methods.¹⁶⁵

On the whole, the *Code of 1897* aimed at and procured a much greater centralization of the functions of poor relief, both outdoor and indoor, in the hands of the board of county supervisors. The board had gained power at the expense especially of the township trustees and, to a lesser degree, of all the other relief officials. Even the new officials created by legislation between 1873 and 1897 as well as those existing before 1873 were by this Code brought under complete subjection to the supervisors.

THE COUNTY AUDITOR

The county auditor does not appear in the *Code of 1851* among the officers connected with the relief of the poor. But by the *Code of 1873* he was constituted one of the county relief officials to whom was given a part of the duties belonging formerly to the court. It was to him that the county contesting the order of removal must give notice of its intention to contest. In the action itself the county auditor took the place of the judge in serving notice upon the auditor of the other county of the amount claimed for the support of the pauper.¹⁶⁶

The *Code of 1897* imposed one further duty upon the auditor. He was made an alternate authority

with the supervisors of the county in which a pauper had a settlement to request that a pauper unable to be removed be cared for temporarily in the county where he became chargeable.¹⁶⁷

THE CLERK OF THE COURT

Even in the *Code of 1851* the clerk of the court appeared as an officer charged with certain functions in poor relief. Either he or the judge of the county of settlement must be notified when a county had removed from its borders a pauper who had no settlement therein.¹⁶⁸

The *Code of 1873* increased the powers of the clerk of the court. The code commission in its report deprived him of even the small part in the relief of the poor that was given to him by the *Code of 1851*, but the legislature saw fit to increase his importance by substituting the words "clerk of the circuit court or judge" for "circuit court or judge" in the section providing for the seizure of any property of a party abandoning those naturally dependent upon him, after application by the latter to the township trustees. The clerk had coördinate power with the judge to issue an order to seize the goods, and sole authority to discharge such an order in case the party returned and gave satisfactory security to the clerk. Moreover, it was with the clerk that the notice and transcript of the proceedings in case of a contest between two counties over the removal of a pauper must be filed.¹⁶⁹ Subsequent legislation made no changes in these provisions.

DIRECTORS OF THE POORHOUSE

Of a slightly different type from the county officials elected by the people and charged with duties with reference to the poor were the directors of the poorhouse. The appointment of these officers was optional with the county judge according to the *Code of 1851*. If he chose not to appoint such a board, the judge himself performed their duties. He could appoint one or three as he chose. Except in certain matters concerning settlement and the collection from relatives of expenses for the support of paupers, where the directors were coördinate authorities with the court or the township trustees, the directors were the secondary authorities in counties which had a poorhouse, just as the township trustees were in counties which had no such institution.

It was the duty of the directors to take charge of and manage the affairs of the poor and of the poorhouse. They were a body corporate, were required to take oath faithfully to discharge their duties, and were appointed for one year and until their successors were appointed and qualified. Power was given to them to make contracts and purchases needed for the poorhouse and to prescribe rules for its management. They had joint authority with the township trustees and the county judge to admit persons to the poorhouse. Moreover, they had power to countermand any order of admission, or an order for the relief of a person outside the poorhouse made by the township trustees, and to make any other provision they pleased in relation to the pauper so treated.

It was they who bound out poor children in the poorhouse, and ordered the discharge of any inmate of that institution who had become able to support himself.

The directors of the poorhouse provided for the relief of any poor person who made application and whose condition did not admit of his removal to the poorhouse. They were required to see that the poorhouse was visited once a month by a member of their body. The directors were also invested with all the powers theretofore given to the trustees of townships in relation to the poor in counties having poorhouses. They had authority in a county which had a poorhouse to apply to the county court to compel a relative to support a pauper, and to make affidavit of such person's failure to obey the court's order, as a preliminary to execution upon his goods. Furthermore, they were authorized to apply to the court for an order to seize the estate of a father or of a mother living apart from her husband, if they had abandoned child or children; or the estate of a husband who had forsaken his wife, when such dependents were liable to become chargeable to the public. The directors could seize the property, under the orders of the court, and use it for the maintenance of those abandoned. The directors or the trustees and the judge or court, warned from the county any persons who came from other States or counties and were about to become county charges. The directors or the trustees received paupers removed from a county where they had no settlement.¹⁷⁰

After the enactment of the *Revision of 1860* the duties of these officers remained the same. They were appointed by the supervisors, however, and were subject to the latter as they had been to the county court under the *Code of 1851*.

The commissioners who prepared the *Code of 1873* omitted all reference to directors. In an explanatory note, however, to their draft of section forty-three, title eleven, they stated that they omitted "§§ 1398-1400, 1411, 1413, 1414, [i. e. those section of the *Revision of 1860* dealing with directors of the poor-house] and all other provisions of this chapter with relation to 'directors of the poor-house' as superfluous and practically obsolete. Such a board of directors might be useful in a county governed by a single county judge, but are worse than useless in addition to a board of supervisors." It was the belief of the commissioners that "no such board does in fact exist in any county in the State. The power given to them by the statute is of course vested in the board of supervisors".¹⁷¹ Thus, the directors of the poorhouse vanish from the history of poor relief in Iowa. As a matter of fact the only existence they ever had, if the statement of the code commissioners of 1873 may be believed, was statutory, since the provision for directors was never realized in actual practice before the office was forever abolished.

THE COUNTY SHERIFF

Before the *Code of 1851* was adopted the county sheriff played no part in the administration of poor

relief in Iowa so far as statutory obligation was concerned. In this Code he was not specifically named as one of the officials concerned with poor relief. He was included by implication, however, in the section which related to the serving of the court summons upon a person who had failed to support his pauper relative. This summons was to be served "in any county by any officer thereof or by any other person".¹⁷² The same provision was continued in the *Revision of 1860*.¹⁷³

In the *Code of 1873* the sheriff was implicitly included among the relief officials in a new clause which reads as follows: "And all provisions of this chapter relating to trustees shall apply to any other officers of a county, township, or incorporated town, or city, charged with the oversight of the poor."¹⁷⁴ Moreover, the sheriff now assumed the function given to the directors by the *Code of 1851* in seizing the property of an absconding person who left those naturally dependent upon him chargeable to the county.¹⁷⁵ Since that time his duties with reference to poor relief have remained unchanged, except in connection with certain poor children, as will be noted later.

THE "SPY"

By the *Code of 1851* there was introduced among the officials dealing with the relief of the poor one whose duties were not concerned with relief, directly, but constituted a sort of espionage upon the person who had the contract for the care of the poor. He had no title in the statute, but he was indicated in

the language of the law as "some person to examine and report upon the manner in which the poor are kept and treated". He was to be appointed from time to time by the county judge, indicating that the Code did not contemplate the appointment as more than a temporary one. He was to make his inspections without notice to the contractor and, evidently, report his findings to the judge. He was thus a kind of inspector for that official. He remained as a servant of the supervisors in the *Code of 1873* and the *Code of 1897*.¹⁷⁶ In the latter, however, he remained as a mere survival, for the contract system was rapidly disappearing.

THE CONTRACTOR

As has been seen, from a very early period in the history of poor relief in the Northwest Territory, the contract system has been one of the principal methods of caring for the poor. The system was introduced by the law of 1795,¹⁷⁷ and its adoption became practically universal in the Middle West. The contract system was found in the laws of the Territory of Wisconsin. Thence it came to the Territory of Iowa; and it has been continued in every Code adopted in this State. It stands in the law to-day, although in 1911 there was only one county in the State which let out the care of its poor by contract; while one other county boarded out its few paupers.¹⁷⁸

Under this system the contractor was a *quasi* county official, for he had the right to employ a

pauper in any work which his age, health, and strength permitted, subject to supervision of county and township officials.¹⁷⁹ Happily, however, the State has arrived at a point in its development when the contractor for the care of the poor has all but vanished.

THE STEWARD OF THE POORHOUSE

Another subordinate official was the steward of the poorhouse, appointed by the primary relief officials. Such an officer is to be found first, so far as this history is concerned, in the "superintendent" of the poorhouse in the Ohio act of 1816 concerning poorhouses; and this title was retained in the Iowa Territorial poorhouse law of 1842. The title appears as "steward" for the first time in Iowa history in the *Code of 1851*, and it has remained unchanged to this day.¹⁸⁰

Under whatever name he was known the duties of this officer have not changed much from those indicated in the Ohio law of 1816. He receives into the poorhouse all those who produce an order for admission from a township trustee or a county supervisor. Under the *Code of 1851* and the *Revision of 1860* he received those who brought an order from the county judge, a trustee, or a director.¹⁸¹ From the beginning of Iowa history to the present it has been his duty to see that each inmate was employed at such labor as he was able to perform and that the name, age, and date of admission of each pauper admitted was recorded in a book kept for that purpose. More-

over, he was to conduct the poorhouse in such a manner as the board of directors or, since 1873, the board of county supervisors, might direct.¹⁸²

Under the general powers granted the supervisors to govern the steward, the poor farm was managed by him up to the time of the adoption of the *Code of 1873*. Before that date one can not discover from the statutes that the steward of the poorhouse had anything to do with the management of the poor farm. In that Code, however, it was provided that the receipts from the poor farm "if there be one", together with the proceeds from the labor of the paupers were to be appropriated to the use of the poorhouse in such a manner as the board of supervisors might determine.¹⁸³ This is but another illustration of how frequently practices arise of which legislation takes no direct cognizance.

In the beginning the superintendent, or steward, of the poorhouse was merely the agent of the directors or other primary authorities in actually managing the institution, which at that time was a purely charitable establishment. Soon, however, the problem of providing work for the able-bodied paupers arose, as it did earlier in English experience. Instead, however, of making the poorhouse into a work-house in the same sense as was intended by the Elizabethan legislation copied by some of the early American States and an example of which is to be seen in the law of the Northwest Territory of 1790, the American States of the Middle West

evolved the poor farm on which the able-bodied paupers could work.

The poor farm, however, was destined to assume an important place in its demands upon the time of the steward of the poorhouse. He has really become primarily the steward of the poor farm, and secondarily of the poorhouse. Most of the latter functions have been turned over to his wife as matron. He has become the farmer, rejoicing more in making the farm pay than in making the poorhouse a home for the aged and infirm; taking more pride in his fine cattle, hogs, or chickens, and in the spacious barns than in the comfort, usefulness, and happiness of the inmates of the poorhouse or in the buildings in which they are housed.¹⁸⁴ We must not forget, however, that these men only reflect the attitude of their employers, the members of the boards of supervisors, and that the latter simply carry out the policy which they know the taxpayers consciously or unconsciously hold.

VIII

TOWNSHIP AND CITY RELIEF OFFICIALS

THE TOWNSHIP TRUSTEES

Of the minor relief officials the township trustees do not come first from the point of view of historical development. The township trustees are the lineal functional descendants of the township overseers of the poor of early American and English legislation. At first there were both township trustees and township overseers of the poor.

So far as this study is concerned, the entrance of the township trustee into the field of poor relief was brought about by the Ohio statute of February 22, 1805, in which they took the place of the county commissioners as the primary relief officials. To them the overseers of the poor reported complaints concerning poor persons; and they, upon inquiry, decided whether the overseers should afford relief.¹⁸⁵ It is not surprising, therefore, that in the Iowa Territorial acts of February 16, 1842 (which was borrowed from Ohio), and June 5, 1845, the trustees should be designated as township relief authorities.¹⁸⁶

The provisions of the Iowa Territorial law of 1842 so far as it pertained to the functions of the trustees, continued in force until the adoption of the

Code of 1851. In that Code the trustees were given coördinate authority with the directors of the poorhouse in applying to the county court for an order to compel a relative to support a pauper. It appears that in every Code of the State the trustees have been among the authorities empowered to warn prospective paupers to depart, and to grant admission to the county poorhouse.¹⁸⁷ Moreover, in the *Code of 1851* and the *Revision of 1860* the township trustees of the county where the pauper had his settlement were constituted coördinate authorities with the directors to whom could be delivered a pauper who was removed from a county where he had no settlement.¹⁸⁸ They had the oversight and care, furthermore, in counties which possessed no poorhouse, of all poor persons so long as such persons remained county charges, and until provided for by the county supervisors.¹⁸⁹ They supervised the employment of paupers by a contractor, subject to the ultimate control of the county judge under the *Code of 1851*, and of the county supervisors under the *Revision of 1860* and the *Code of 1873*; while the *Code of 1897* placed such control in the hands of the supervisors primarily, although they might commit the subject to the care of the trustees.¹⁹⁰

It was to the township trustees, according to the *Code of 1851*, that the poor must make application for relief; and such trustees had the authority to relieve the persons temporarily and make reports of all cases to the judge forthwith. Thereafter they were governed in further relations with the paupers

by the orders of the judge. These authorities certified to the judge all claims and bills for the relief of the poor; while their refusal to grant relief was subject to review by the county judge on appeal.¹⁹¹ In subsequent legislation, although there were some minor changes tending towards greater control by the county authorities, the chief change was the substitution of the supervisors for the county judge.

Moreover, in granting relief outside of the poorhouse, or in issuing an order of admission to that institution, their actions had to be reported at once to the directors of the poorhouse and were subject to review by these authorities.¹⁹² To make sure that the trustees would be duly subordinated to the county authorities, the supervisors or their appointees, the poorhouse directors, it was further provided in the *Code of 1851* that "the directors are also invested with all powers before given to the trustees of townships in relation to the poor."¹⁹³ Thus the trustees looked after outdoor, and the directors after indoor, relief.

The *Code of 1873* made little change in the duties of the trustees as regards poor relief. The sheriff, however, took the place of the directors of the poorhouse as a coördinate authority with the trustees in forcing support of paupers by relatives. It was they, nevertheless, who were made responsible for the relief of all such persons as in their judgment should not be sent to the poorhouse, except in cities of the first and second classes, where an overseer might be appointed.¹⁹⁴ In counties having no poorhouse they

had charge of the poor only "until provided for by the board of supervisors."¹⁹⁵ This Code added the provision that no trustee could draw an order on himself or on any member of the board for supplies for the poor unless he had a contract to furnish such supplies.¹⁹⁶

Since the directors of the poorhouse did not appear among the poor relief officials listed in this *Code of 1873*, the supervisors were substituted for them in the provision requiring the trustees to report to them any relief they might give outside the poorhouse; while the requirement that the trustees must report that they had issued orders for admission to the poorhouse was omitted entirely.¹⁹⁷ In fact, they could issue such orders without review by the board of supervisors.¹⁹⁸ In this respect the Code represents a transition stage of development. In the *Code of 1851* the county judge, and in the *Revision of 1860* and the *Code of 1897* the board of supervisors, predominated in poor relief; while in the *Code of 1873* there were two coördinate authorities in this respect. Probably, however, this was simply an oversight, for a pauper who was refused relief could still appeal from the township trustees to the county supervisors.¹⁹⁹

By the provisions of the *Code of 1897* the trustees retained authority to direct that relief be given by relatives to paupers who had applied for aid; to apply to the district court for an order to compel relatives to support paupers; to apply for a variation of the court order against relatives of paupers; to make

affidavit to the court of the fact when a relative ordered to do so had not paid money ordered by the court; and to make complaint upon application to the clerk of the court or to the judge for an order to seize the property of a deserting father, mother, or husband. They, or the supervisors, continued to serve written warning to depart to prospective paupers with settlement elsewhere.

Subject to general rules which might be adopted by the county supervisors, the township trustees were charged with the duty of providing for the relief of poor persons whom they thought should not be sent to the poorhouse and for all persons in counties having no such institution, until provided for by the supervisors.

It was further stipulated in the *Code of 1897*, against the recommendations of the code commission, that the trustees should continue to require able-bodied persons applying for relief to work upon the streets and highways at five cents per hour in payment for relief given. No trustee was permitted to be directly or indirectly interested in any supplies furnished the poor — a new provision which went much farther than the provisions of the *Code of 1873*, forbidding a trustee to draw an order upon himself unless he had a contract to furnish supplies. The trustees remained the authorities to whom application must be made, who passed upon the application, and who, if satisfied that relief was required, granted it, subject to the approval of the county supervisors. To the latter they were to report the case immedi-

ately. The legislature also incorporated in the *Code of 1897* the provisions of the law of the Twenty-second General Assembly, giving the supervisors the right to examine all claims presented by the trustees for the support of the poor, and to reject or diminish them if they found that the goods or services exceeded what was needed to supply the necessities of life. This provision was to apply to all counties in the State whether they had poorhouses or not, and to the acts of overseers of the poor as well as of township trustees. All claims and bills, as before, had to be certified to be correct and presented to the supervisors. The applicant, if refused relief by the trustees, could still appeal to the county supervisors.

The section dealing with the employment of paupers by a contractor was so changed in the *Code of 1897* that authority was more completely centralized in the hands of the supervisors. The township trustees, however, continued, coördinately with the supervisors, to admit people to the poorhouse.

Finally, the *Code of 1897* contained a new section providing that the word "trustees" should be construed so as to include and mean any person or officer of any county or city charged with the oversight of the poor — a provision which, from the references to the other Codes appended to that section, seems to have been meant simply to transfer to a separate section the provisions of the last clause of Section 1333 of the *Code of 1873*.²⁰⁰

If one considers the whole history of legislation on the relation of township trustees to the relief of the

poor in Iowa, State and Territory, it becomes apparent that the part played by these officials, from the legislative standpoint, has been one of diminishing importance. Their other duties have encroached upon their efficiency as relief officials. This fact, together with the circumstances that they were usually under the control of county relief officials and that other officers gradually were given their duties largely accounts for their decreased importance in the plan of poor relief.

THE OVERSEERS OF THE POOR

From the standpoint of historical development the overseer of the poor is the oldest of all the poor relief officials in the history of Iowa. Originating in England in 1572, with the purpose of securing the better organization of the collection and distribution of the common fund for the relief of the poor which had been gradually developing in the English parishes, this official was imported from England into American poor relief systems in colonial days.²⁰¹ He appears in the first poor law of the Northwest Territory, that of November 6, 1790; while in the second law of that Territory, borrowed from Pennsylvania, he occupied a still more important place.²⁰² In both of these statutes English usage was predominant. In the first poor law of the Territory of Iowa, that of 1840, (borrowed from Wisconsin, as has been seen), there were no overseers; but in the law borrowed from Ohio two years later Iowa first obtained these relief officials.²⁰³ By the act of June 5, 1845,

the township trustees were made ex officio overseers of the poor, thus for the time being eliminating the overseer.²⁰⁴

In the *Code of 1851* the overseer of the poor is mentioned but twice;²⁰⁵ and the two functions of the office were to remove to the county of his usual residence a pauper who asked to be so removed, and to have general oversight of paupers employed by the person who had the contract for the care of the poor. In this Code the term "overseer" is synonymous with township trustee. Only the name remained: the duties had been assumed by other officials. In the *Revision of 1860* this strange survival of a previous practice was retained as in the *Code of 1851*.²⁰⁶

The *Code of 1873* entirely omitted the matter contained in Section 1392 of the *Revision of 1860*; and mention of the overseer in connection with the contractor was likewise eliminated.²⁰⁷ With reference to the first omission the code commission said in explanation:

Rev. § 1392 is omitted as needless if not conflicting with the entire scope and object of the settlement law. Happily these laws have heretofore been almost superfluous, and defects in them have attracted no attention. But with a rapidly increasing population, and its inevitable results, they will have to be more strictly enforced: and it will then be seen to be a mere waste of money to send a pauper from one county to another unless he has a settlement in the latter, and therefore a legal claim to relief. Besides it will lead to disputes and litigation between the counties if retained.²⁰⁸

In the *Code of 1873*, however, there reappeared in a new rôle this ancient official. By the act of April 6, 1868, city councils of cities of the first class embraced within the limits of townships were authorized to render relief to their poor who were not sent to the county poorhouse, in much the same way as the township trustees cared for those outside such cities. This new provision divided authority in some cases and led to disputes between city and county poor relief authorities. At the same time it imposed an irksome duty upon the city council. And so, it seemed best to the commission which prepared the *Code of 1873* that this division of authority should be eliminated, that the control of the poor relief in cities should be left in the hands of the county officials, and that the latter should handle the problem of out-relief in cities by the appointment of special overseers of the poor in cities of either the first or second classes.²⁰⁹ The overseer thus provided for was given all the powers and duties of township trustees relative to poor relief. Thus, after his practical disappearance from the list of poor relief officials of Iowa for thirty-three years, the overseer found a new place and new duties in Iowa's system of poor relief.²¹⁰

In the *Code of 1897* no changes were made in these provisions, save to make the section apply also to cities situated in two counties.²¹¹ To-day, therefore, in the poor relief system of Iowa the township trustees are overseers of the poor for townships outside of cities of the first or second classes; while in

cities of the first and second class there is a special overseer of the poor. In both cases these officers are under the direction of the county supervisors.

In the law providing for overseers for cities an effort was made to suit the administrative machinery to the situation in the rapidly growing cities of the State, for in these centers the old system had broken down. Township trustees and county supervisors might do well enough in a frontier county having but a few hundred inhabitants, where every one was known to the officials, at least by reputation. But in a populous county, with an unstable population gathered together in a city, where large numbers of the people might speak a foreign language and where most of the inhabitants were unknown to anyone but the "ward-heeler" or the missionary, the old neighborhood conception of life was too simple. Moreover, the county supervisors were, with the growth of population, forced to give their attention increasingly to other matters. Thus, the office of city overseer of the poor was created.

How unscientific, however, was the conception that one overseer, unassisted, could by any method known to man become acquainted with all the people in a city of the first class well enough to enable him to relieve applicants with discrimination! In actual administration it was even too much to expect supervisors to appoint to this office an expert in charitable work. The person chosen was doubtless a good man, honest, and sympathetic, but often he was either old or crippled so that he found it difficult to get

about and investigate conditions; and in most cases he lacked the qualifications necessary for scientific poor relief.

The result can be easily guessed. Under such circumstances relief in the homes of the poor by the public overseer is apt to be either wasteful or inadequate, and usually both — being wasteful in the cases of persons who have a political or personal “pull”, and inadequate in those cases where the individuals are friendless or whose friends are not close to “the powers that be”. Usually the overseer is jealous of organized charity workers; and in this attitude he has the support of the supervisors. In a very few cases the overseer turns over his cases to the Associated Charities of his city for investigation. Those instances, however, are all too rare.

At the same time it is perhaps true that with slight changes this plan of poor relief by city overseers would work well. In the first place the overseer should be appointed on his merits as an up-to-date relief expert, and he should be given paid and trained assistants, or, as in the Elberfeld-Hamburg system of Germany, he should be assisted by a large number of volunteer helpers each of whom is given only a very small number of needy to look after. If he himself is not a trained relief worker, there is one alternative: if there is an Associated Charities organization in the city, he should be given to understand that he must turn his cases over to that organization with its trained workers for investigation; while in the treatment of each applicant for relief he must

follow the course suggested by these workers. In this way the county would be provided with expert treatment of poverty without any increase in the tax budget, since such a plan would obviate the necessity of providing the overseer with trained assistants at county expense.

To any one who has thoroughly considered the subject, however, this solution of the problem would be merely a makeshift. While private philanthropy was necessary in the relief of poverty until such time as the methods of poor relief were standardized, no self-respecting Commonwealth can permanently abandon the most important part of the administration of its relief of the poor to private agencies. That would be to confess that the public can not, with its great resources, secure what private organizations have secured with their voluntary and often meagre support. Moreover, it is to profess that that community is the better off which pays for these services out of private contributions rather than out of public taxes; and it is also to admit that the public can not, or should not, secure as expert service in the relief of the poor as a private association obtains. The skepticism of the charity worker concerning the possibility of having expert public relief must pass away. The feeling against scientific public poor relief is the outworn prejudice of a day that is almost gone. It has served its purpose; it has established private standards which even now are becoming recognized by broad-minded public relief officials. We must not abandon the public relief of-

ficial to his ignorance and folly: he must be redeemed. Public relief must cease to be the synonym of pauperization. It should be made to mean adequate relief after careful investigation and service in the rehabilitation of people who are now or are about to become paupers. Two pivotal factors in this program of reform are the overseer in the cities and the supervisors who appoint and support him.

IX

THE POORHOUSE IN IOWA POOR RELIEF LEGISLATION

The early poorhouse laws of America were borrowed from England, the chief features being copied from the great act of Elizabeth (43 Eliz. c. 2)²¹² and from later English acts. The English idea of a workhouse, however, was adopted in America later than the period when the laws were made upon which the legislators of Iowa drew for models.²¹³ When Iowa became a State the establishment and conduct of poorhouses were governed by the law borrowed from Ohio by the Territorial legislature in 1842 — a law which remained upon the statute books until the adoption of the *Code of 1851*. The chief characteristics of that law have already been pointed out.²¹⁴ It is perhaps sufficient in this connection to state that it possessed the involved features of administration which had been developed in Ohio on the basis of the English poorhouse system borrowed by Ohio from Pennsylvania; that it was introduced into Iowa without serious consideration of its adaptability to the pioneer conditions prevailing in the Territory in 1842; and that experience showed it to be ill-fitted to meet the needs of the young Commonwealth.

Its involved machinery of administration made it unwieldy.

This machinery consisted of the county commissioners, who governed the poorhouse only indirectly through a board of directors appointed by them; of a monthly visitor appointed from among the members of the board of county commissioners; and of the directors, who appointed the superintendent in immediate charge of the poorhouse. The system of reports from the superintendent to the directors, then from the directors to the county commissioners, and the monthly inspection directly by one of the commissioners made the law too complicated for efficient administration in a community where the conditions were simple and the needs few. The board of directors, organized as a body politic and corporate with the members taking office by a solemn oath or affirmation to properly perform their duties, issuing its orders for the admission or discharge of inmates after careful examination to ascertain whether the applicant had a legal settlement in that county, but receiving the application for admission not directly but through the township trustees — such a board was certainly a creation worthy of some eastern potentate bent upon devising the trappings of “majesty that doth hedge a throne”, but was hardly suited to the democracy of pioneers in log cabins on the lonely prairies or along the forest-clad banks of the rivers of Iowa from 1842 to 1851.

The sections in the *Code of 1851* dealing with the poorhouse were for the most part taken from the

Iowa law of 1842 or from the earlier legislation of Michigan Territory or Ohio. Not a single section finds precedent in the Wisconsin Territorial law. By reference to the table given below in the Appendix it will be seen that all the sections but five (828, 829, 830, 834, 838) are based upon provisions in the law of 1842. Of these five sections two have close relationship with the Michigan poorhouse laws, while three seem to be absolute innovations. The new sections, however, did not change the essential features of the existing law relating to poorhouses, although some minor changes were introduced.

The supremacy of the county judge in the establishment and administration of the poorhouse stands out as the chief difference between the provisions of the *Code of 1851* and the law of 1842. The appointment of a board of directors was left to the option of the judge—a change in the direction of simplicity. The approval of a proposed expenditure for a poorhouse by the voters put a limit on the almost absolute power vested in the judge, which power in relation to the establishment of poorhouses had been vested without limitation in the county commissioners by the earlier law. This new feature was borrowed from the Michigan law of 1829. For the term “superintendent” was substituted “steward” of the poorhouse—a new term in the legislation of the group of States and Territories from which Iowa had thus far borrowed legislation. When a trustee gave relief outside of the poorhouse or issued an order for admission to the poorhouse, he was

required immediately to notify the directors, a measure intended to concentrate relief in the poorhouse more closely. Aside from these alterations the changes made by the *Code of 1851* were chiefly verbal or matters of arrangement.

When one makes a comparison of the law regulating the county poorhouse as found in the *Code of 1851* with the law enacted on this subject at later sessions of the General Assembly he is struck by the remarkable fact that very little change has occurred. It is true that the county judge disappeared as the primary administrative officer, but that change was incidental to the overthrow of the county judge system. All that occurred was that the board of county supervisors took over his functions. The Civil War brought in some changes as to the admission of certain classes of unfortunates to the poorhouse, which tended to recognize the stigma attaching to that institution and helped to accentuate the abhorrence felt for the poorhouse as a result of seventy years of history. In recent years, moreover, a futile effort has been made to change the character of the institution by changing its name. Of radical changes in its organization, its discipline, its general management, or its essential character, there have been none.

The *Revision of 1860* made no changes in the management of the county poorhouse except such as were made necessary by the passage of the law of that year which abolished the office of county judge and substituted the board of county supervisors. In fact, with one exception, the only change made in the

poor laws by the *Revision of 1860* was the insertion of a section of definitions at the beginning of the chapter dealing with that subject, stating that wherever in the law the words "court" or "judge" were used they were to mean "board of supervisors".²¹⁵

THE CITY INFIRMARY

The exception in the *Revision of 1860* mentioned above was a provision in the chapter on the incorporation of cities and towns which gave to the city council the power to erect, establish, maintain, and regulate an infirmary for the accommodation of the poor of the city, either within the limits of the city or within the county in which the city might be situated; and for that purpose the city might purchase or hold the necessary real estate. The government of this infirmary and the granting of outdoor relief as well were committed to a board of three directors to be elected by the qualified voters of the city and to hold office for three years. The city council might provide for the election of, or it might order the directors to appoint, an overseer in each ward to perform such duties in the care of the poor and in their removal to the infirmary as the council might provide. This provision was obtained by simply incorporating into the Code one section of an act approved on March 23, 1858.²¹⁶

This section, moreover, inaugurated a new kind of a poorhouse and a new method of outdoor poor relief. It was an attempt to adapt the outgrown county system to new conditions in growing centers of popula-

tion — but it was about fifty years ahead of the date when it might have had a chance to succeed. At the same time the law possessed some promising features. It provided for a board of directors, and for an overseer over a small section of the city who should have been able to become acquainted with the needy of his ward. It promised, thus, to give to the city an officer with that intimate knowledge of the poor which was possessed by the rural overseer, the township trustee — an acquaintance which was the prime factor in the success of the rural overseer of the poor and of the friendly visitor in the city, and which has been the chief explanation of the favorable attention attracted by the Elberfeld-Hamburg system of poor relief in Germany.

But the law had within it the seeds of its undoing in that it was essentially a political system. The directors were elected, and the council had control over the appointment of the overseers. The cheap demagogue, or the man unable to do anything else, and not the expert in relief work, would naturally be the one chosen as overseer under this law. Furthermore, the law was too complicated for the state of social development which Iowa had then reached.

In the *Code of 1873* this provision was reduced to a single sentence giving the city council power to establish and maintain an infirmary for the poor of the city and to distribute the outdoor relief to the city's poor. Nothing was said about directors or overseers.²¹⁷

It is highly probable that the powers thus given to the city council of providing a city infirmary were never exercised, for the code commissioners in 1873 could say that they had omitted all the provisions of that chapter relative to directors of the poorhouse as superfluous and practically obsolete, and could express the belief that no such board did as a matter of fact exist.²¹⁸ While they were writing directly concerning county poorhouses, it is hardly possible that a city poorhouse or infirmary had been established with a board of directors between 1858 and 1873, if no county — with the possibility of a larger number of paupers — had organized such a board during the longer period between 1851 and 1873. This supposition is the more probable by reason of the comment made by the code commission on another part of the same chapter, relating to outdoor poor relief. In discussing the changes which they proposed in the act of the Twelfth General Assembly granting cities of the first class the right to handle their own outdoor relief through the city councils, the commission remarked that they made the proposed changes because it was understood that the duty thus imposed upon the council was irksome and led to collision or dispute between the city and county authorities.²¹⁹ The probabilities are that the only existence that city infirmaries with a board of directors ever had under these provisions was a paper existence. At any rate the *Code of 1873*, while still making such an institution possible in the section

relating to the powers of city councils, made no provision for it in the chapter devoted to the relief of the poor.²²⁰

THE DIRECTORS OF THE POORHOUSE

Provision for directors of the poorhouse was made in the Territorial law of 1842, which remained in force in the State until superseded by the *Code of 1851*.²²¹ Under this Code, these officials were retained, although they were appointed by the county judge at his discretion. As a matter of fact, however, the code commission of 1873 was unable to discover that any such officers had ever been appointed. They therefore discarded from their report the provision for directors of the poorhouse, with the result that after 1873 such officials were no longer included in Iowa's poor laws. An examination of the legislation providing for directors will, however, serve a useful purpose, if it does nothing more than show how illy adapted were the early laws to circumstances in Iowa: it will, perchance, reveal the defects of the easy method of borrowing laws without a consideration of their adaptability to conditions in the Commonwealth for which they are intended.

In the Territorial statute of 1842 and in the *Code of 1851* the directors of the poorhouse were declared to be a body corporate and politic, they were to take an oath of office faithfully to discharge their duties, and were to appoint a clerk. They were to be the actual governing body of the institution. In both

statutes they were authorized to make all contracts and purchases for the poorhouse and to prescribe such rules and regulations as they thought best for the management of that institution and for the guidance of the superintendent or steward. According to both they had the authority to bind out such poor children of the poorhouse as were likely to be a permanent charge upon the public — males until twenty-one and females until eighteen years of age, unless sooner married, or for shorter periods, if it was thought best. Again the directors were to cause the poorhouse to be visited once each month by a member of their body to ascertain whether or not the paupers were being properly cared for, and to inspect the books and accounts of the superintendent or steward. Both statutes required the board of directors to report the conditions of the poorhouse, in the one case to the county commissioners and in the other to the county court.

According to the Territorial law the county commissioners must appoint the directors; while the *Code of 1851* made their appointment optional with the county judge. In the former law the number of directors was fixed at three "judicious persons"; in the latter, either one or three might be appointed. The law of 1842 gave the board no option as to whether they should appoint a superintendent of the poorhouse; while the *Code of 1851* gave the directors discretionary power. The former act stipulated that no person was to be admitted to the poorhouse except upon the written order of the trustees or the

county commissioners; while according to the latter law admission was made upon the order of a township trustee, a director, or the county judge. Further examples of the differences between the two laws are perhaps unnecessary. The *Code of 1851* was simpler, less rigid, and better fitted to be of use, had there been any need of such machinery. To the directors in both cases was delegated, for the management of the poorhouse, the power of the primary relief authorities, namely, the county commissioners in the former law and the county judge in the *Code of 1851*. With the disappearance of the directors, their duties fell directly upon the board of county supervisors.²²²

Nothing could better illustrate the manner in which some of the poor laws of Iowa were secured: they were taken ready-made from the statute books of other jurisdictions. Furthermore, nothing indicates better the wholesome optimism concerning the future development of the State, combined with the reprehensible carelessness which was characteristic of the early law-makers, than these laws providing for institutions and a scheme of management which were at least fifty years ahead of the times, and which were lacking in many of the elements that would fit them to the stage of social development then reached by the State.

THE SUPERINTENDENT OR STEWARD OF THE POORHOUSE

The other subordinate authority in the administration of the poorhouse, and one who was actually

appointed and performed his functions, was the person in immediate charge thereof, called the "superintendent" up to 1851, and since that date known as the "steward".

The Territorial law which was in force in the State until 1851 and the Code adopted in that year, had common provisions relative to this official. He was governed by the directors, gave what security they demanded, was paid what they thought proper, and was subject to removal at their pleasure. He might require of all persons admitted such reasonable and moderate labor as was suited to their ages and bodily strength. The proceeds of this labor were to inure to the benefit of the institution, as the directors might determine. He was to admit only those who brought to him an order from the proper authorities. He was to enter in a book the names of all persons admitted, with their ages and the dates of their respective receptions to the institution; and his work and his accounts were to be inspected once a month by the directors.

The only differences between these two statutes relative to this officer were in minor details. The Territorial provisions are somewhat more detailed, but the *Code of 1851* had practically every feature of the earlier law with respect to the superintendent or steward.²²³

The only change made in the duties of the steward, in the *Code of 1873* was the introduction of a clause requiring him to appropriate to the use of the institution any proceeds from the farm, if there was one,

as well as from the labor of the inmates,²²⁴ and a provision that committees of the board should have authority to impose regulations upon the steward.²²⁵ In the *Code of 1897* no changes were made in the duties of this official.²²⁶

The legislative history of the duties of the steward however, does not tell the whole truth. When the poorhouse was first devised a farm was not a necessary accompaniment, even in its earlier history in America, and in spite of the fact that originally in England under the Great Act of Elizabeth it was located on waste lands of the manor. With the spread of the poorhouse system throughout the Middle West, where there was so much cheap land, the idea occurred to some one to locate the poorhouse upon a farm and have the inmates work the land. As already noticed, it was not until the enactment of the *Code of 1873* that such an idea found its way into the laws of Iowa. Then the mention of the farm as a possible source of revenue was introduced by the qualifying phrase: "if there be one".²²⁷ With the growing expense of poor relief the primary relief authorities saw in the poor farm a means of supporting the poor without resort to direct taxation. A growing emphasis was placed upon this function of the poor farm and the steward, whose duty originally had been to look after the welfare of the inmates, now became chiefly a farmer. His success was judged, not by his efficiency primarily in making the inmates comfortable, in keeping such as could work happily employed, and in looking after

the building, but rather by his ability to make the farm pay. The very change in the name for this officer is significant. A steward historically was one who had the management of financial affairs. Emphasis upon the economic side of the work of the steward has crowded out, to a large degree, his attention to the supervision of the poorhouse and its inmates.²²⁸

ADMISSION TO THE POORHOUSE

Under the terms of the Territorial act of 1842 the pauper's needs were made known to a township trustee. If there was a poorhouse in the county the law contemplated that paupers should be cared for in that institution, except in such cases as by reason of sickness the dependent could not be removed, or in case the pauper did not have a legal settlement in the county or needed only temporary relief. The trustees of the township where the pauper fell into poverty, or the county commissioners, were to issue an order to the directors of the poorhouse to admit him. This order was accompanied by a statement of facts signed by the trustees or the county commissioners setting forth the person's name, age, birthplace, length of residence, previous habits and present condition, the date or dates at which he had been warned to depart (if not a native of the county or township), and if such warning had been neglected, the cause of the neglect. If, after examining this statement the directors found the person was entitled to relief under the law of settlement, they,

or a member of their body, issued an order to the superintendent of the poorhouse to admit him.²²⁹

In the laws of 1851 and of 1860, the process was less complex. Here, however, it was prescribed that the pauper must make application to the township trustees before relief could be given by them. The order of admission could be issued to the steward of the poorhouse by the township trustees, by a director of the poorhouse, or by the county judge, or later by the county supervisors. This action of the trustees, nevertheless, was subject to review by the directors of the poorhouse.²³⁰

In the *Code of 1873* and the *Code of 1897* no directors were provided for; and so admission was upon the written order of a township trustee or a member of the board of county supervisors.²³¹ Inasmuch, however, as the actions of the trustees were subject to review by the supervisors, the matter theoretically was ultimately in the hands of the latter officials, although in practice the double control actually existed.

DISCHARGE FROM THE POORHOUSE

There has been provision in every Iowa poor law for the discharge of inmates of the poorhouse who were able to support themselves. The Territorial statute of 1842 provided that when any person had been received into the poorhouse as a pauper on account of infirmity or disease and had become so far restored to health as to be able to support himself,

the directors might order the superintendent of the poorhouse to discharge him.²³²

In each of the later statutes the provision was more general and included all inmates, whether admitted on account of sickness or not. In the codes of 1851, 1860, and 1873, the ordering of the discharge was made optional; while in the *Code of 1897* it was made obligatory upon the board having the matter in charge.²³³

In none of the Iowa poor laws has there been any provision to prevent an inmate from discharging himself. There were no precedents for such a measure in the laws of the States and Territories from which the poor laws of early Iowa were borrowed, and the laws were made by persons who had had no training in scientific methods of handling poor relief. The age of the expert in legislation relative to the care of the poor had not yet arrived. Therefore, only legal precedents, gathered from a field limited by a rather narrow horizon, dominated the making of the laws. The result was that such an idea as preventing a person from leaving the poorhouse seems never to have occurred to either the code-makers or the legislators. Hence, the Iowa law to-day on the discharge of paupers from a poorhouse is the same as that of the reign of Elizabeth in England. As a consequence, the poorhouse can become the winter harbor of the vagrant from which he may discharge himself at will when the gentler breezes of spring begin to blow. Either he should not be al-

lowed to enter, or else his discharge should be controlled by the body which admitted him.

CHILDREN IN THE POORHOUSE

When Iowa became a State the only mention of children in the poorhouses to be found in the laws was in connection with their being bound out. The directors of the poorhouse were authorized to bind out to apprenticeship pauper children in the institution — the boys until the age of twenty-one and the girls until eighteen years of age, unless such girls should marry before that age — on the terms and conditions laid down in the act governing apprentices and servants.²³⁴

Under the provisions of the *Code of 1851* and the *Revision of 1860* the directors might bind out such pauper children in the poorhouse as were likely to remain a permanent charge on the public. A provision was added which gave them the authority to bind children out also for shorter periods than until the ages mentioned above.²³⁵ In the *Code of 1873* the age to which they could bind out the children was lowered to eighteen for boys and sixteen for girls, unless the latter were married before that age.²³⁶

On recommendation of the code commission of 1896, this section was transferred from the poor law to the chapter on master and apprentice in the *Code of 1897*. In that chapter the limit of the age to which either boys or girls could be bound out was reduced to eighteen, but the apprenticeship for both sexes²³⁷ ended at marriage.

In this Code, however, a new section, based upon an act of the Seventeenth General Assembly in 1878, was inserted, which provided that poor children when cared for in the poorhouse, should attend the school of the district in which the poorhouse was located. The pro rata expense of educating these children was to be paid by the county to the school district and charged up to the poorhouse expense account.²³⁸

In spite of the fact that the law still permits the sending of children to the poorhouse, it is true that a consciousness of the wickedness of such a practice has been growing among the people of Iowa, at least since the Civil War. In 1866 a home for the orphans of soldiers was provided for by the legislature.²³⁹ Just as sympathy for the soldier led to the creation of the Soldiers' Home and gave Iowa the provision of its poor laws forbidding the sending of a soldier or his family to the poorhouse, so it also resulted in giving the State the Soldiers' Orphans' Home and in arousing agitation for the care of other orphans in special homes instead of in the poorhouses.

In 1874 petitions were presented in both houses of the legislature, praying that the Soldiers' Orphans' Homes should be opened to other children as well as to orphans of soldiers.²⁴⁰ So insistent was the demand that in 1876 provision was made for the reception of other destitute children into the Home at Davenport.²⁴¹ This provision, however, did not work out as its promoters had hoped. This was due to the fact that the county from which the child came was required to bear the expense of his support at

the Home. The county supervisors found it cheaper to keep pauper children in the county poorhouse.

Governor Sherman in his second biennial message on January 14, 1886, urged that a law be passed prohibiting the sending of children to a poorhouse. It remained merely a suggestion, since it was cheaper for the county to keep its pauper children in the poorhouse. While the law still permits them to be kept in that institution, the agitation against the practice has had the result of inspiring other agencies to undertake their care. This was but one part of a movement which has as a matter of fact taken most of the children out of the county poorhouses.²⁴²

Another movement which had the same result was the organization of children's homes and home-finding societies, which have had a great growth since the Civil War and are now under State regulation.²⁴³ As a rule only those who are children of a parent in the poorhouse are now retained in that institution — and these are usually very young. The law should, however, forbid children over a certain age (say two years) to be kept in a county or city poorhouse. In this instance the law has not only failed to lead the social conscience, but it has not even followed it, except by providing for the care of children elsewhere.

THE POORHOUSE AS THE ONLY METHOD OF RELIEF

The law in force in Iowa at the time of admission into the Union provided for relief either in the poorhouse or in the homes of the needy. Inasmuch as it was easier to provide for the needy by outdoor relief

than to build poorhouses in a new and sparsely settled country, the law providing for care in those institutions was based upon the contingency that the board of county commissioners, to quote the words of the statute, thought it "proper and advantageous to build a poor-house". The poorhouse was not looked upon as the place in which all relief should be given. As a matter of fact in the early days it played a very small part in poor relief.

In the *Code of 1851* and the *Revision of 1860*, while provisions were made for the care of the poor in their homes, the law provided that "relief is to be furnished in the poorhouse only, when the person is able to be taken there, unless the judge order otherwise."²⁴⁴ Without doubt the intention of the makers of the *Code of 1851* was to concentrate poor relief as much as possible in the poorhouse, thus furnishing an interesting parallel to a similar attempt in early Ohio legislation.²⁴⁵

The regard for the welfare of the soldier and his family during and after the Civil War played havoc with this economical but brutal theory. In 1868 the Twelfth General Assembly had provided that no widows or families of Iowa soldiers should be sent to the county poorhouse when they could be, and preferred to be, relieved in their homes to the extent of two dollars a week. In the *Code of 1873* this exception was extended to any other poor persons in families — a provision which was again broadened in 1878 to include all Union soldiers and their widows and families. Finally, in the *Code of 1897* this priv-

ilege was extended to members of the army and navy, and to their widows and families. The relief of other persons outside the poorhouse was made discretionary with the county supervisors.²⁴⁶

In short, in the early history of poor relief in Iowa, as represented by the Territorial law of 1842 the minimum emphasis was upon relief in the poorhouse, but after poorhouses increased in number there was a tendency to concentrate relief in those institutions. The Civil War checked this tendency for certain classes, and the reaction found its expression in the *Code of 1873*. With the founding of institutions providing for the care of needy soldiers and their families, and with the tendency to place poor relief in the hands of the county supervisors, sentiment swung back toward the former policy.

SUPPORT OF THE POORHOUSE

When one studies the legislation dealing with poor relief one is impressed with the fact that in the absence of high motives growing out of careful scientific study of poverty and its treatment, economic considerations have largely determined the treatment prescribed: the desire to save the taxpayer immediate outlay, not the determination to so deal with the question as ultimately to lower the rate of taxation for poor relief by prevention and rehabilitation, has too often governed the law-makers. A study of the administration of these laws would doubtless show this fact even more clearly, since the laws have always made abundant provision for the care of the

poor. One feels, however, that the authorities who have been closest to the practical administration of the laws and were chiefly responsible for the taxation necessary to carry out any plans, have not always had the necessary social vision to conceive or carry out a constructive social policy with respect to the poorhouse. So far as giving the supervisors power to do things goes the laws have been adequate. What the legislation has lacked is mandatory constructive features. These, however, have been impossible with our political ideal of local autonomy in the management of the county institutions, an ideal which has had to yield to State control and direction in those Commonwealths, like Indiana, which are handling the poverty problem hopefully.

In the Territorial law of 1842 the county commissioners were empowered to levy and collect a poor tax of not more than one mill on the dollar on the valuation of all property taxable for county and Territorial purposes, in case the regular revenue of the county was insufficient for the support of the poor.²⁴⁷ This provision was repeated in the codes of 1851, 1860, and 1873, except that in the first the court levied the tax and in the last two the board of supervisors performed this duty. The expenses were to be paid out of the county treasury in the same manner as other county disbursements.²⁴⁸ The *Code of 1897* omitted the statement of previous codes as to the manner in which the expenses of maintaining the

poorhouse should be paid, although it retained the millage tax provision.²⁴⁹

CENTRALIZED CONTROL OF THE POORHOUSES

This short-visioned economy in the management of the poorhouses inevitably gave rise to evil conditions. Except in a few places the bad results of county supervision of the poorhouse first became apparent in connection with the treatment of the insane in the poorhouses. Attention was called to the situation in these institutions by a "visiting committee" appointed by the General Assembly to look into conditions in the hospitals for the insane and embody the results in their report in 1875. This committee made an investigation of the care of the insane and other mental defectives throughout the State, and reported that fifty-three counties in the State had poorhouses at that time, while forty-six counties lacked such an institution. In these poorhouses they found confined three hundred and thirty-two men paupers and two hundred and eighty-five women, a total of six hundred and seventeen. In addition, the poorhouses contained forty men and forty-nine women who were idiots, and forty-six men and forty-three women who were insane. The counties which had no poorhouses maintained two hundred and sixty-six permanent paupers, three idiots, and twenty insane persons. At that date Jackson County was the only county which had a separate building for the care of the insane, although Scott County had an arrangement by which the twenty-

three insane persons in the county were cared for in Mercy Hospital near Davenport.

In its report the committee protested vigorously against the conditions existing in the poorhouses, saying:

The experiences of all communities, and the results of the especial inspections of the poor-houses in New York and Pennsylvania, demonstrate that the retention in such places, of cases of insanity and idocy, is not only a gross violation of the commonest sentiments of humanity, but that such disposition, especially as to females, inevitably and invariably leads to results alike opposed to public morality and public safety. In one of our own counties, (Scott,) a few years ago, an investigation into the conditions and discipline of the poor-house, and particularly as to the relations between the ordinary male paupers and the insane females, exhibited such shocking disclosures that the county authorities immediately established the rule that *no* cases of insanity should thenceforth be placed in their poor-house.

It is respectfully submitted that a similar "rule" should, by legislative enactment, be established throughout the State.

Pending the completion of state accommodations for *all* the insane of Iowa, there should at least, be provision, by a statute enactment, for constant general supervision by officials appointed by the state, of all the county institutions of detention, particularly including jails, poor-houses and public and private hospitals, in which the counties may have provided for such claimants on their care.²⁵⁰

In these words are to be found the first public notice by State officials of conditions in the poorhouses

of Iowa and the first official suggestion of State control.

Following immediately upon this report, Governor Carpenter in his second biennial message (January 12, 1876), and upon the suggestion of the committee itself, urged that this Visiting Committee should have its powers enlarged so as to include within its scope the duties of examining county jails and poorhouses and of suggesting improvements in the conduct of these institutions.²⁵¹

Governor Gear in his second biennial message (January 10, 1882) cited the report made to him by Dr. Margaret A. Cleaves, of Davenport, whom he had appointed as a delegate to the National Conference of Charities and Correction. Fresh from this meeting, where State boards of charities had been discussed, in her report she urged the necessity of such an organization in Iowa. The Governor recommended that such a board be appointed, because the disclosures of conditions in many States concerning the management of poorhouses demonstrated the fact that some supervision other than that afforded by the existing system of government for these institutions was necessary.²⁵²

Not until twelve years later did another Governor mention the subject. At that time (1894) Governor Boies argued for a board of control which should occasionally visit county institutions.²⁵³ His successor, Governor Jackson, in his biennial message of January 14, 1896, while opposing the creation of a board of control, urged that the powers of the Visit-

ing Committee to the Insane Hospitals be enlarged so that they should be required to visit all poorhouses where insane patients were kept ²⁵⁴ — a suggestion which was reiterated by Governor Drake two years later.²⁵⁵

In spite of the opposition of Governors Jackson and Drake to that particular form of a controlling body, the Twenty-seventh General Assembly in 1898 passed an act creating the Board of Control for all State charitable and correctional institutions.²⁵⁶ By the terms of an act of April 7, 1900, there was committed to this Board of Control supervision of all county poorhouses in which insane were kept.²⁵⁷

Thus a small measure of State supervision has finally come to the management of the poorhouses of Iowa. It must not be forgotten, however, that only those poorhouses in which there are kept insane people are inspected by the Board of Control. The poorhouses of those counties in which the insane are kept in another building, even though it be in the same yard with the poorhouse, have no State supervision to this day.

It is well known that this supervision has had good results. Ever hanging over the heads of local authorities, solicitous now as always to keep down the taxes of their constituents, is the power of the State Board of Control — a body which is not so near to the voters as are local officials, and is therefore less subject to the influences which are largely responsible for the inefficiency to be seen in the administration of county poorhouses. This con-

trol should be further extended so as to include every poorhouse. With a board of social vision and enough intelligent inspectors there would be hope that that travesty upon the name in most of the counties of Iowa — the “county home” — would indeed become a *home* for the infirm and aged poor who have no friends but the county. Then perhaps that soulless, conscienceless thing, the county, might become what it should be — a humane friend of the helpless poor.

X

OUTDOOR RELIEF OF THE POOR IN IOWA

Relief of the poor in their homes has ever been the method employed in a newly settled country. It requires no preliminary preparation; in the beginning it is only one step removed from mere neighborly assistance; and it is the most economical method.

While the earliest law of the Territory of Iowa provided for poorhouses, the probabilities are that such institutions were never built during the time such legislation was in force. The law in operation on this subject at the time Iowa became a State was that approved on February 16, 1842—a statute adopted from the Ohio law of 1831, and devoted entirely to the subject of the relief of the poor in their homes. It concerned itself with questions of support by relatives, settlement, and the administration of out-relief. Every other statute on the subject of poor relief in Iowa has included provisions for relief in poorhouses and in the homes of the poor, or by contract.

From first to last some features have remained common to all the various acts passed in Iowa. Two methods of out-relief have been common to all of the laws of the State for the relief of the poor, namely, relief could either be furnished to poor persons in

their homes or be let out on contract. In all of these acts relatives were held liable for the support of paupers; while relief was contingent upon settlement for a certain length of time in the township or county, and there were provisions for the return of paupers who had no settlement in the place in which they fell into want to the place of their legal settlement.

Moreover, certain officials persist throughout the history of poor relief legislation in Iowa, although their names were altered in some cases, as for example, those having direct charge of relief in townships. And although some officers were eliminated in the course of development and their functions were given to other county or township officials, nevertheless, the chief functions remained the same throughout. In other words, the main features of the process by which out-relief was administered were never changed. Except during the first four years, when the Territorial law remained in force, these features were application by the pauper, followed by an investigation by certain township officials, either the overseers of the poor or the township trustees; then either direct relief by these officials and a report of their action to the county officials, or else a report of the need to the county officials first and direct relief with their approbation afterwards; or sometimes direct relief by the township officials without review by the county authorities. Inasmuch as the details of relief, both in the poorhouse and out, have been discussed in pre-

vious chapters it will be necessary here only to sum up on broad lines the development of out-relief in Iowa.

RELIEF BY CONTRACT

The form of poor relief first established in Iowa was relief under a contract. Strictly speaking this was not out-relief in the sense in which that word is used in later days. Since, however, it was an alternative form to relief in the poorhouse, it has been treated as such. This system was applied to children whose parents were unable to support them, and included those who were in poorhouses as well as those who had not yet been sent thither. Moreover, this form of out-relief has been incorporated in every law enacted in the State of Iowa for the relief of the poor.²⁵⁸ But even more universal have been the statutory provisions relating to the care of adult paupers by contract; for such provisions are to be found in both of the laws on this subject which were in force in Iowa during the Territorial period.²⁵⁹

The contractor has been dealt with in the chapter on *County Relief Officials*.²⁶⁰ In this connection, therefore, it will not be necessary to do more than trace very briefly the changes which occurred in the position of that individual during the course of the development. In all essentials the law relating to the contractor was not changed, except that provision was made for a more careful supervision of his care of the poor. In the Territorial law of 1840 no supervision of the contractor

was provided for.²⁶¹ In the statute of 1842 a limit was imposed in that the overseers could not contract with any one for the care of the poor for a longer period than one year.²⁶²

In the legislation of 1851 and 1860, probably owing to the abuses which had arisen in connection with this method of caring for the poor in the early history of the State and also to the fact that these codes allowed the contractor to employ the poor, an additional provision was inserted. It was in the *Code of 1851* that there is first to be found that interesting official, "the spy", whose business it was "to examine and report upon the manner the poor are kept and treated." This examination was to be made without notice to the contractor. While this provision remained in each of the succeeding codes, its importance has constantly decreased by reason of the passing of this method of caring for the poor.²⁶³

The contract system did not answer to the increasingly complex conditions of society in Iowa. Moreover, two other methods were coming into favor and tended to supplant the contract plan. The poorhouse was bound to increase in popular favor at a time when men measured the development of the State largely in terms of masses of people and in buildings. Where, however, an institution seemed too expensive for a county and therefore impossible of realization, relief in the homes of the poor was much cheaper, more humane, and not subject to the abuses which had grown up in connection with relief by contractors. Thus, relief in the homes of the

poor became the dominant mode where there was no poorhouse, except in the case of the infirm or the solitary pauper.

RELIEF IN THE HOMES OF THE POOR

Temporary relief of the poor who had no settlement where they fell into want has been the policy in Iowa from the beginning. At first the expense was borne by the county or township where such person received aid; later by the county where such person had a legal settlement.²⁶⁴

The *Code of 1851* introduced out-relief in the homes of the people. Up to that time the supposition was that relief must be given either in the poorhouse or by the contractor. In the codes of 1851 and 1860 the county court and the county supervisors, respectively, were given discretion either to pay to the poor a small sum from time to time or an annual allowance, not to exceed the amount that might be necessary to care for them by the other methods in vogue.²⁶⁵ Practically these same provisions were continued in all later legislation. In the *Code of 1873* the supervisors were authorized to grant this relief; while in the *Code of 1897* the matter was placed in the hands of the supervisors directly or of the township trustees or the overseer of the poor in the cities, under the supervision of the county supervisors.²⁶⁶

This method of relieving the poor leaped into increased prominence during and immediately following the Civil War. Concern for the soldier and his

family, and reaction against the stigma of the poorhouse for this class of dependents soon left their impress upon the poor relief legislation of the State. The details of that development have been set forth in other chapters.²⁶⁷ Here it will be sufficient to notice that the movement to relieve the families of Iowa soldiers naturally gave rise to a growing concern for other families needing relief. An act approved on April 6, 1868, gave dependents who had family relationships, aside from the families of Iowa soldiers, the right to be relieved in their homes to the extent of two dollars per week for each person, rather than go to the poorhouse.²⁶⁸ With the passage of time and the growing realization of the possibility of abuse in outdoor relief, the law-making body of the State receded from that position. In the *Code of 1897* the question of providing relief for other persons than the families of soldiers in this manner was put within the discretion of the board of supervisors.²⁶⁹ There the matter remains, except with respect to those to whom the recently enacted widow's pension law applies.

THE SOLDIERS' RELIEF FUND

The Civil War caused the establishment of the Soldiers' Home and the Soldiers' Orphans' Home. Before either of these institutions had been provided for by the State, the legislature, by an act approved on March 28, 1864, had authorized each county to levy a tax of not less than two mills on all taxable property for the creation of "The Relief Fund" for

soldiers and their families.²⁷⁰ This fund was used to relieve the families of soldiers and later came to be employed also for supplying the needs of old soldiers themselves who became dependent.

This law is of interest in this connection because of the fact that it helped to establish the principle of outdoor relief of the poor. Once established in the customs of the people, this principle held its own, until to-day it costs the State more to care for the paupers outside of the poorhouses than is expended for the maintenance of those institutions.²⁷¹

As administered in Iowa there is no supervision of out-relief aside from what meagre and inefficient oversight is given by the county authorities, whose chief concern seems to be to keep down the taxes. The State has absolutely no control over the matter. Nor is there inspection by State agents — one respect in which the situation is much worse than in the case of the poorhouses. Even the widow's pension law is administered by the courts. In most cases the judges are perhaps somewhat better fitted than the supervisors to bring to the oversight of this form of out-relief in the interest of dependent children a wide experience and a more expert knowledge of how such a fund should be administered. Yet it can hardly be said that such oversight as they, with all their other work and interests and with their specialized training for the law, can give is the best possible kind of supervision. At best they have no experience outside of the one or few counties within which they hold court. They can not give themselves

to a special study of the problems of poor relief. With certain exceptions they are not men who have a large and generous social interest. Men of attainments in the law, experts in the interpretation of laws, and men of fine character they usually are, but they are not often men especially trained in the methods of poor relief.

These qualities are not to be despised in a judge: doubtless they count for much in the administration of justice in a district. Are these characteristics, however, those which make the judge expert in knowing just how far to go in granting pensions to a woman with a dependent child, or which serve to make him the best possible person to give the final word in the administration of a law dealing with the delicate problem of the relief of mothers and children — a word that may mean either pauperization or rehabilitation, according to the judge's wisdom? That this is the best method of supervising out-relief, even of the special sort represented by the mothers' pension, is open to serious doubt.

It would be very much better if some State supervising agency could be employed for this work. Indiana has found that supervision by the Board of State Charities is a very efficient method of decreasing poverty through outdoor relief. Under such supervision in that State from 1898 to 1909, the number of townships which made no levy for outdoor relief increased from 64 to 276. The number which made a levy of less than one-half mill increased from 515 to 634, while the number levying more than one-half

mill decreased from 435 to 107. Under this system in Indiana the cost of outdoor relief for that State decreased from \$355,255.29 in 1895 and 1896 to \$279,967.31 in 1909, while the average amount given to each person aided increased from \$4.97 to \$5.13. In short, the number of persons aided was very materially decreased, while the relief was made more adequate for those to whom relief was given.²⁷²

This matter could be very efficiently handled by a statutory provision which would give to the Board of Control authority to appoint one or more efficient inspectors to supervise outdoor relief. As in Indiana, county boards of charities composed of unsalaried appointees with the duty of overseeing poor relief, reporting to the Board of Control, and publishing their reports in the newspapers, would enlist the interest of people with non-political aspirations and secure efficient administration. The statute should give the Board authority to prescribe methods and regulations under which out-relief would be given. With the waste which is almost everywhere characteristic of outdoor relief in Iowa, especially in the larger communities, this would put an effective check upon indiscriminate giving, would establish in our public out-relief system the principles of scientific charity, and without a doubt in the next five years would materially lessen the amount spent in this way, as well as secure more adequate relief in the cases of those actually in need. It might be well, also, for such a statute to provide, as in Indiana, that the amount spent by the overseers of the

poor in each community should be paid, not out of county funds, but should be taxed back to each township or city. This would have the effect of making the overseer of the poor and the township trustees careful in the administration of relief, while the State supervision would secure efficiency.

PART III
SPECIAL CLASSES OF DEPENDENTS
AND STATE CONTROL

XI

SPECIAL CLASSES OF DEPENDENTS: NORMAL CHILDREN

The plan of treating all classes of dependents in the same manner has been the worst enemy of scientific poor relief. Progress began in Iowa when a classification of the poor, with special treatment for each class, became possible. This classification came about chiefly in connection with three classes of paupers, namely, soldiers and their families, children, and defectives. The special treatment afforded soldiers and marines in local relief has been noticed briefly in connection with the discussion of the poorhouse.

ILLEGITIMATE CHILDREN

The child of abnormal social relations first arrested the attention of the poor authorities; and that unhappy being, the illegitimate child, was the subject of the earliest poor laws respecting the care of children. The motives, however, which singled him out for treatment were not the humane sentiments of pity or the desire to give him a fair chance for manhood and independence, but the desire to prevent him from becoming a charge upon the community: it was partly a sordid motive and partly a legitimate

desire to place social responsibility where it belonged.

So far as Iowa is concerned the legislation relative to this class of children goes back to the act approved in Michigan Territory on April 12, 1827, which was extended over Wisconsin Territory in 1836 and still later over the Territory of Iowa. The Iowa Territorial legislature by an act approved on January 4, 1840, reenacted practically this same statute, except that county commissioners were substituted for overseers of the poor. These acts provided that the father of the child should furnish bonds to the overseers of the poor in the one case, and in the other to the county commissioners, in order to relieve the township or county of responsibility for the support of the child.²⁷³

The *Code of 1851* contained practically the same provisions, except that the county judge took the place of the overseers of the poor, or the county commissioners. There was added the express provision, however, that the father should give bonds to insure that the child should not become chargeable to *any* county in the State.²⁷⁴ No changes were made in the *Revision of 1860*, save that the county supervisors supplanted the county judge.²⁷⁵ The only modifications to be found in the *Code of 1873* were the provisions that the court, rather than the mother of the child, should determine the sum or sums the father must pay her for the support of the child, and that the court could change the amount at any time.²⁷⁶

From that date to the present time no changes have been made in the statutes. Numerous decisions have been rendered by the courts, however, which indicate plainly that the whole purpose of the laws upon this subject was to secure the maintenance of the bastard child. For example, if another than the father of the child married the woman while she was *enciente*, knowing that fact, by reason of marrying her he came to stand *in loco parentis* to the child, and consequently the real father could not be held for its maintenance.²⁷⁷

SOLDIERS' ORPHANS

Reference has been made to measures to relieve the families of soldiers of the Civil War outside of the poorhouse.²⁷⁸ Born of universal gratitude to the men who risked their lives for the Union, these measures were the first expression of revolt against the sad condition of the poor in these county houses. Sentiments of humanity rebelled against the inhumanity which would thrust the widow or children of a man whose only fault was patriotism into an institution which might be endurable as the only home of the social derelicts usually predominating there. To this institution soldiers' families must never be sent. Soldiers' children, therefore, shared with their mothers the relief provided for them in their homes to the extent of not more than two dollars each per week. This provision for the relief of soldiers' widows and orphans, however, did not satisfy the sentiment of the times. To Iowa belongs the credit of

priority in establishing soldiers' orphans' homes. Even before the close of the war homes for soldiers' orphans were opened in the State as private enterprises — one located at Davenport and one at Cedar Falls. The leaders in this movement were Judge C. C. Cole, who was president of the Iowa Soldiers' Orphans' Home before it was taken over by the State in 1866, and Mr. Ingalls, the president of the institution at that date. These homes were at first supported by voluntary contributions gathered from soldiers in the army and from public spirited citizens; but the institutions and the orphans in them were taken over by the State when the "Board of Trustees of the Iowa Soldiers' Orphans' Home" was established by the Eleventh General Assembly in 1866.²⁷⁹ A tax of three-eighths of a mill on the dollar was to be levied by the Census Board of the State for the support of this institution,²⁸⁰ the principal department of which was located at Davenport, with a branch at Cedar Falls and later one at Glenwood.²⁸¹

This same act made provision also for the creation of a "Soldiers' County Orphan Fund", to be used for the maintenance and education of soldiers' orphans in each county. This provision, however, was not obligatory upon the counties. The assessor in each ward and township was to make an enumeration of all the children of deceased soldiers and make an accurate report to the county supervisors. The latter might levy a tax, not to exceed one-half mill on the dollar, if there were any such orphans in the

county needing aid. It was expressly provided that these provisions for a county fund were not to be construed so as to prevent the orphans, or a part of them, from being sent to any orphans' home in the State. The supervisors, moreover, were to administer this fund.²⁸²

In spite of the fact that the State Orphans' Homes were admirably managed, either on the cottage plan or with a grouping of the orphans in each institution into wards with a special matron over each group, and with provision for good schools in the institutions and later for the installation of special equipment for trade training, it soon began to be felt that no matter how good an institution was, it was not ideal. Governor Merrill, in a special message to the legislature on April 3, 1868, voiced this feeling. He urged that the trustees of the Home, in certain approved cases, should pay to the mothers a sum equal to the estimated cost of the children's support at the institution and allow the children to remain at home. His reasons for this proposal were that in some cases the child would be better cared for "under the combined influences of both duty and affection", and that it would lessen what seemed to be undue severity to the mother in depriving her of the only part of her family left her by the cruel necessities of war — her children.²⁸³

The suggestion by Governor Merrill was not followed; but in 1868 the legislature provided for the adoption of any child from a soldiers' orphans' home into a good family, and for the discharge from

the home by the trustees of the institution of any child who, himself, or whose mother had sufficient means to provide for him.²⁸⁴ This law was prompted partly by the fact that numerous soldiers' children whose fathers and in some cases both parents were still living had, under a liberal interpretation of the law, been admitted to the Homes. Governor Merrill declared that the State had not yet undertaken to care for the children of surviving soldiers of the late war, and urged that provision be made for the adoption of children from the Homes into good families and that a more precise definition be made by statute of the proper children to be received.²⁸⁵

If the children were to be kept in the Home it was felt by large numbers of people that they should be trained in some useful trade. From the first they were taught to work at such tasks as a Home with rather a small amount of ground attached permitted — the boys working in the garden and preparing the necessary stove-wood and doing the heavy work about the institution, and the girls learning housework. But it was early realized that especially for the boys trade training was essential. And so, by an act approved on March 21, 1874, provision was made for the introduction of industrial training into the Homes.²⁸⁶

An act approved on March 15, 1876, represented an endeavor to increase the educational privileges afforded the children in the Homes by providing that they were to be given the opportunity to obtain as good an education as could be gained in the com-

mon schools and were to be furnished some useful employment. Further provision was made in the same act that any profits accruing from the labor of these orphans should be used for the general support of the Home. The children, moreover, were to be assisted in finding homes and employment after their discharge.²⁸⁷

In the natural course of events, with the passage of a few years the need for so many institutions decreased. This fact, together with the frequent adoption of children into families, conspired to foster measures and suggestions for the reduction of the number of these Homes; a bill providing for the consolidation of the three Homes introduced in the House in 1874 went to a third reading, but was defeated by a vote of forty-six to forty-eight. From the records it is evident that the chief cause for its defeat was the fact that it contemplated the closing of the smallest of these Homes — the one at Glenwood, which was the only one in western Iowa. An amendment was offered and passed during the discussion upon the bill which reveals the feeling that institutions, no matter how good, lacked the influence of a good home. It provided that the children at Glenwood should be sent to their parents and guardians and that these parties should be paid eight dollars a month for the maintenance of each child until he or she was fourteen years of age.²⁸⁸

Two years later the decrease in the number of soldiers' orphans in these institutions had become so striking that Governor Carpenter pointed out the

fact that it would be necessary either to close the institutions or to open them to others than soldiers' orphans. This latter policy was recommended by the superintendents and trustees of the Homes and by the Governor, who argued that the State would save the cost of sustaining such an institution in raising to useful citizenship indigent orphans who otherwise would be neglected and become criminals or be left to grow up to a dependency in the poor-houses. He insisted that the proposal was not unheard of, since New York had recently removed all children from almshouses in that State — adding that no event since the Emancipation Proclamation had caused more rejoicing.²⁸⁹

The legislature responded to these suggestions by making a number of radical changes in the laws relative to the Soldiers' Orphans' Homes. An act approved on March 15, 1876, provided for the closing of the Homes at Glenwood and Cedar Falls and for the transference of their inmates to the institution at Davenport. Besides permitting the admission of such destitute children as in the judgment of the trustees should be admitted, the law also changed the membership of the Board of Trustees from a board composed of one person from the county where each Home was located and two appointed from other parts of the State, to one composed of three persons from the State at large. Furthermore, the county from which others than soldiers' orphans were sent was made chargeable for their support — a provision which unfortunately resulted in the support of

most orphans except soldiers' orphans in the county poorhouses or in the State Reform School.²⁹⁰

For a number of years after the consolidation of the various Orphans' Homes at Davenport the number of inmates decreased. In 1871 there was a total in the three institutions of 718.²⁹¹ In 1891, on the other hand, the total number of soldiers' orphans in the institution at Davenport had decreased to 88. This decrease had begun to be felt in 1876, when the legislature closed the Homes at Glenwood and Cedar Falls and opened the Home at Davenport for the reception of other destitute orphans. An interesting fact, however, is that from 1891 to 1905, with the exception of the year 1899, there was a gradual increase in the number of soldiers' orphans in the Home.²⁹² Governor Drake in his biennial message of January 11, 1898, referred to this strange circumstance. He accounted for it by pointing out the possibility that many had hitherto been sent to the Home as county children whom more thorough investigation showed to be soldiers' orphans. Another explanation, however, is possible, namely, that this increase came from the second families of soldiers.²⁹³

The Board of Control was created by the Twenty-seventh General Assembly in 1898, displacing the various boards of trustees. Accordingly, on July 1st of that year the Soldiers' Orphans' Home, with the other charitable and correctional institutions of the State, came under the control of this Board.²⁹⁴ In the first biennial report of the new Board certain

recommendations were made for amendments to the law governing the Soldiers' Orphans' Home. Of chief interest in this connection is the recommendation that the Code be so amended that no person should be admitted as an inmate of the Soldiers' Orphans' Home until his application had been made to and approved by the Board of Control. It was also recommended that the adoption of children from the Home should be subject to the decision of the superintendent of the institution and the Board of Control, and that this control should be so absolute that the consent of the parents or guardians should not be required in those cases where the parents and guardians were either dissolute or immoral in their habits, or were unfit to have charge of or to rear the children.²⁹⁵

From the time of the opening of the institution to all destitute orphans in 1876 soldiers' orphans have had the preference of admission. By a law approved on February 19, 1906, the Thirty-first General Assembly added the children of sailors and marines to the preferred class for admission to the Home;²⁹⁶ and this same General Assembly by a law approved on April 5, 1906, provided for the adoption or placing out on contract of children in the Soldiers' Orphans' Home at Davenport.²⁹⁷ In response to the recommendations of the State Board of Control, provision was also made for the appointment of two State agents by the Board of Control to find suitable homes or positions and employment when desirable for the inmates of the Soldiers' Orphans' Home and

the Industrial Schools. These agents were also to exercise supervision over those placed out in this manner, and to examine their conduct and their surroundings. If they found the latter bad, they were required to find other homes for these children or other places of employment and report the facts to the Board of Control.²⁹⁸

Further extension of control over these children was granted the Board by an act approved on March 28, 1911. This act provided that children received into the Soldiers' Orphans' Home, no matter how received, were wards of the State and unless adopted under the law, might be placed by the superintendent with any person or family of good standing and character, where they would be cared for and properly educated under articles of agreement between the superintendent and the person with whom they were placed. These articles of agreement were to be approved by the Board of Control, the duty of which was to provide for the custody, care, maintenance, and earnings of the child for an agreed time, not to extend beyond the child's majority.²⁹⁹ This provision grew out of the fact that the Board was having difficulty in securing the adoption of children from the Home by the people of Iowa. As a consequence of this fact, and of certain tendencies to be discussed under the next section, the Home was becoming overcrowded.

DEPENDENT CHILDREN OTHER THAN SOLDIERS'
ORPHANS

The Soldiers' Orphans' Homes had not been in operation many years before their advantages over the poorhouse as institutions in which to care for dependent children became apparent. The comparative excellence of these Homes for soldiers' orphans, as well as the decreasing number of this class of dependent children, forced upon the minds of people the question of throwing these Homes open for other dependent children. In the legislature on January 26, 1874, Mr. Tufts presented to the House a petition from Mr. R. A. McIntyre and others, praying that the Orphans' Homes of Iowa be opened to other orphans. Within the next month more than fifteen petitions, asking for the same thing, were presented to the House. Some of these were placed on file and others were referred to the Committee on Orphans' Homes.³⁰⁰ In the Senate, also, a large number of petitions was presented on the same subject.³⁰¹ No action was taken, however, by the legislators at this session.

In his first biennial message on January 23, 1874, Governor Carpenter pointed out the fact that two years before there had been a total of 718 children in the various Homes; and that at the time he was speaking the report showed that there was a total of 508. "The work of this great charity," he remarked, "as the children of the soldiers pass beyond need of its help, draws to a close." In view of this fact and of the investments made by the State, the

board of trustees and the superintendents recommended that the Homes be open to all orphans.³⁰² Two years later (January 12, 1876) Governor Carpenter showed that the decrease which he had noted two years before had gone steadily on, the total number in all the institutions at the time being but 298. He remarked that this fact indicated that within the next two years it would be necessary to close the institutions entirely unless they should be opened for the reception of other orphans. Therefore he strongly urged that the recommendations of the superintendents and trustees for the opening of these institutions as general orphans' homes be adopted by the legislature. It was his belief that the State would save the cost of such an institution in raising to useful citizenship in these institutions indigent orphans who, if unprovided for, would become criminals. Reference has already been made in another connection to the fact that in support of his recommendation he pointed out that New York on the first day of January had removed all pauper children from county almshouses to State asylums.³⁰³

In accordance with these recommendations so often repeated, the Sixteenth General Assembly passed a law approved on March 15, 1876, which permitted the trustees of the Soldiers' Orphans' Home at Davenport to receive such destitute children as should, in their judgment, be admitted.

The extension of the privileges of the Home to indigent orphans in general was strictly limited to those who had a legal settlement in the State of Iowa,

and by the further proviso that soldiers' orphans were to have the preference in admission. Moreover, this act provided that the application for admission was to be made by the board of supervisors of the county where the child resided. Thus the whole matter of determining whether a child should be cared for in the Soldiers' Orphans' Home or by some other method was placed in the hands of the board of supervisors of each county. The act, furthermore, provided that the cost of transporting and supporting other than soldiers' orphans in this institution should fall upon the county — a provision which permitted the economic motive to dominate in the determination of where an orphan should be cared for.³⁰⁴

During the twenty-eight years when other orphans than those of soldiers were received and cared for in the Home at the expense of the county from which they came some interesting things occurred which throw much light upon the inadequacy of the economic motive to secure social welfare. Governor Gear, in his first biennial message on January 13, 1880, spoke of the existing urgency for legislative action in the interest of the dependent and indigent children of Iowa. He believed that the number and the needs of such children were much greater than had been supposed. He said that the benevolent intent of the Sixteenth General Assembly in permitting the admission of indigent children had for reasons of economy not worked for the welfare of the children, because of the fact that the law provided

that the board of supervisors in each county must direct the placing of these children in the Home and held the county responsible for the cost of supporting children so placed. On this point he added:

In other words, the several boards of supervisors in question have preferred that the indigent children of their counties shall be either remitted to the tender mercies of the poor-house, or thrown upon the fitful charities of a world whose benefactions in such relation are as often harmful as helpful. These failures of the respective boards of supervisors to place the dependent children of their counties in an institution wherein education, careful training in good habits, regularity of employment in labor suited to capacity and age, and association in groups approximating the family relation would supplement mere provision for clothing and food, have certainly resulted from a mistaken policy. "Economy," falsely so-called, has incited to this. But the State may well inquire whether it can afford to allow any county to practice such "economy" at its expense and to the future peril of the property and lives of its citizens. No fact in social science is more clearly demonstrated than that the criminal classes find their most numerous and constant reinforcements from the ranks of the neglected, and hence the certainly soon to be vicious, children and youth. It is so much cheaper so to care for the indigent children of the State as that these may constantly be kept under the influence of education, industry, and good morals, than to neglect them when children, and to provide for them in poor-houses, jails, and penitentiaries when adults, that a true regard for the interests of the taxpayers must, I am convinced, urge the General Assembly to a thoughtful consideration of the insufficiency of the existing laws in that regard. Such a consideration must im-

pel to the conclusion that the State can neither afford to allow its dependent children to become "street Arabs" and "hoodlums" or permit them to be domiciled in poor-houses to be educated into perpetual pauperism, or be started on the highway to the State's prison.³⁰⁵

In support of this contention Governor Gear cited the fact that during the previous twelve years only five per cent of the inmates of the Home had failed to lead respectable and worthy lives. As indicating the extent of the danger which the false economy of boards of supervisors had produced in the State, he said that on October 1, 1880, there were no less than twenty-six girls and forty-four boys over five years of age in poorhouses in sixteen counties of the State. He therefore urged very strongly that the legislature prohibit the placing of children above two years of age in any poorhouse, and that it pass laws requiring every child destitute of proper parental care, or care on the part of relatives, or for whom adequate provision otherwise could not be made, to be placed in the Orphans' Home at the charge of the county where settlement had been established.³⁰⁶ Finally, in his second biennial message on January 10, 1882, Governor Gear repeated these recommendations and said that there were at that time in the poorhouses of the State eighty-five children under five years of age, fifty-four between five and ten, and twenty-eight between ten and fifteen.³⁰⁷

These recommendations of Governor Gear secured no response from the legislature. The economic motive was dominant, and indigent children, aside from

soldiers' orphans, continued to be sent to the county poorhouses rather than to the State Home. The urgency of the matter, however, appealed also to Gear's successor, Governor Sherman, who in his first biennial message (January 15, 1884) declared that so long as the counties were forced to bear the expense of the support of indigent children in the State Orphans' Home and the law permitted the supervisors the option of sending an orphan to the State Home or to the poorhouse, there was no hope that a change would be made. He urged therefore that the State should bear the expenses of the support of other orphans as well as of those of soldiers in the State Home in order that counties might be led to transfer their orphans from the almshouses to this Home.³⁰⁸ This recommendation met with no response at that time, although it bore fruit later. Two years later (1886) Governor Sherman urged that a law be passed prohibiting the sending of any children to a poorhouse.³⁰⁹ If he had any hope that his recommendation would be followed, he was doomed to disappointment.

For twelve years there is no reference in the official documents to the problem of placing children in the poorhouses. Not until Governor Drake, in his biennial message of January 11, 1898, called the subject once more to the attention of the legislators, is any further mention of this question to be found. In that message Governor Drake communicated to the General Assembly the remarkable fact that many children under ten years of age were sent to the re-

form schools as criminals by the counties rather than to the Soldiers' Orphans' Home, because their support at the reform school was at the expense of the State; while if they were sent to the Soldiers' Orphans' Home they must be supported at the expense of the county. It seems almost unbelievable that any public authorities could be guilty of such a practice were it not for the fact that the Governor spoke of it in such certain terms and based his statement on the report of the Board of Trustees. He pointed out the immediate need of decided legislative action. "It must be a case of exceptional depravity indeed," he said, "that will justify sending a child of that tender age to the Industrial school."³¹⁰

That same year the law was passed creating the State Board of Control, and the Soldiers' Orphans' Home, with the other charitable and correctional institutions of the State, passed under its control. In its first biennial report in 1899 the Board of Control points out the deplorable fact that seventy-six children were inmates of the poorhouses of the State, in spite of the fact that the law provided for the care of such children in the Soldiers' Orphans' Home at the expense of the county. Under these circumstances the Board recommended that the law should be so changed that in all cases boards of supervisors should be prohibited from keeping children in the county poorhouses and should make suitable provision for their care elsewhere. Moreover, it was declared that to let these children grow up amid such surroundings as those to be found in the poorhouses

was to be considered as little less than a crime, and the matter was referred to the legislature as one demanding immediate attention.

In its first report (1899), the Board of Control recommended to the legislature, as has been noticed, that application for admission must be made to and be approved by the Board. It urged further that the adoption of children who were inmates of the Home should be subject to the approval of the superintendent and the Board of Control, and that such adoption might be made without the consent of parents or guardians if the latter were of dissolute or immoral habits and unfit to have charge of and rear the children.³¹¹

No response was made by the General Assembly to these suggestions of the Board. In its second report in 1901, therefore, the Board of Control again called the attention of the legislature to the fact that children were being kept in the poorhouses. In that year they reported that forty-six children under fifteen years of age were in the poorhouses in the preceding June. Twenty-five of these were under five years of age. As the reason for this deplorable condition the Board cited the fact that it cost the county less to support them there than in the Soldiers' Orphans' Home; and asked the legislature for authority to transfer all poor children under fifteen years of age in poorhouses, at the cost of the county where each had his legal settlement, to the Soldiers' Orphans' Home, to the Institution for the Feeble-minded, to the School for the Deaf, or to the College

for the Blind, as in each case it seemed best to the Board.³¹² The legislature again turned a deaf ear to this recommendation.

The Thirtieth General Assembly, however, twenty-four years after the evil was first called to the attention of the law-making body of the State, passed a half-way measure to correct it: by an act approved on March 31, 1904, in an effort to destroy the force of the economic motive which retained children in the poorhouses, the legislature reduced the amount for which the county from which the child was sent to the Soldiers' Orphans' Home was to be held liable to six dollars per month — or about one-half of the cost of their support in that institution. The cost in excess of six dollars was to be paid by the State.³¹³

Recommendations have continued to be made by the Board of Control for the removal of all children from the poorhouses; but thus far these recommendations have been treated with legislative silence.

Curious illustrations of the short-sightedness of county authorities in dealing with this important problem of the care of indigent children come to light in the statements of the Board of Control in its report in 1911. Apparently the belief was widely entertained by parents, judges, boards of supervisors, and others interested that if a parent could not give as good care to a child as it would receive in the Soldiers' Orphans' Home that fact was sufficient for sending the child to the Home, although the parents or persons responsible for his care were financially able to maintain them elsewhere. The Board com-

plained that many parents seemed to regard the Home as a free boarding-school, with the result that a considerable number of children who were in fact not indigent within the meaning of the law were received into the Home.

The report revealed another interesting side-light upon the way in which the law worked out. Reference was made to the change in the law requiring the State to pay half the cost of maintenance of children whose fathers were not soldiers, sailors, or marines, which was enacted by the Thirtieth General Assembly. The Board remarked that this change resulted in many cases in the county authorities inducing parents and others responsible for the maintenance of these children to agree to pay the half of the cost of their maintenance charged to the county, and to let the State pay the other half. The Board observed that this practice had greatly increased the number of children in the Home. It even charged that the courts were parties to these agreements entered into by the parents of children and the county authorities. The Board urged that the law be so changed as to forbid this practice. It was further recommended that those in charge of the Home be given authority by law to place children who came to the Home in homes other than those of the parents.³¹⁴

One change was made by the last General Assembly with reference to the support of children in the Home, when it was provided that each county should be liable for the sum of six dollars per month for

each child in the Soldiers' Orphans' Home sent from that county, just as the law had previously provided, except that when the total number in the institution fell below five hundred and fifty each county was to pay its proportionate part of the expense.³¹⁵

In this connection should be mentioned an effort made by Governor Cummins in his biennial message of January, 1906, to secure the adoption of a family desertion law. He believed that many of the children who were becoming dependent became so by reason of the desertion of their natural supporters.³¹⁶

In making a general survey of the history of the State's treatment of normal dependent children one is struck by the lack of constructive measures for the care of such children. For twenty-four years Governors, boards of trustees, and the Board of Control urged without result the necessity of a simple legislative act which would have taken every child out of every poorhouse in the State and forever forbidden the placing of another child in these institutions. By the simple expedient of reducing by half the amount for which each county is held responsible this result has been obtained in a measure. A law, however, forbidding the placing of children in poorhouses still remains to be enacted. In 1911 there still remained in the poorhouses of thirteen counties of Iowa twenty-one dependent children.³¹⁷ Fortunately the other counties of Iowa at that date had no children in their poorhouses. So far as the law is concerned, however, there might have been children

in every one. The law is still inadequate to prevent parents and counties from sending to the State Home children who should be cared for by relatives. Another fact which has been clearly demonstrated is the superiority of State control of dependent children by a special board. The history of the Soldiers' Orphans' Home, whatever may have been its mistakes, affords the only bright page in the legislative history of Iowa's treatment of indigent children. The laws providing for soldiers' orphans, permitting the admission of other indigent children, and providing for their placement and supervision in families constitute the only constructive legislation on the care of dependent children, aside from the act providing for the juvenile court, in the history of legislation on the relief of the poor in Iowa.

THE CARE OF CHILDREN IN PRIVATE INSTITUTIONS

Very early in the history of the State efforts were made to provide for orphan asylums under private auspices. On January 25, 1848, a joint resolution was approved, the purport of which was that the State's representatives in Congress be instructed to use their best endeavors to procure a donation of five sections out of any lands belonging to the general government which had not yet been disposed of, in or near the township of Fairview in Jones County or in the adjoining county of Linn, near Fairview Township. Just where this land was to be located was to be determined by a commissioner to be appointed for that purpose; and the land was to be used

for the establishment of an orphans' asylum and manual labor school. The land was to remain a perpetual donation and the use and rents therefrom were to be applied for the benefit of poor orphan children and such other indigent persons as might be admitted to the institution as objects of charity.³¹⁸ This project so far as can be discovered came to naught; but it was the beginning of the establishment of a large number of orphans' asylums throughout the State, usually under the charge of some church or philanthropic organization. It is not feasible within the limits of this study, however, to include a history of these various institutions; they can be mentioned only as the State came into connection with them for purposes of supervision.

A quite unusual attitude on the part of the State toward orphan asylums is illustrated by the act approved on April 19, 1872, providing for a loan by the State of \$5,000 to an asylum for orphan children, located at Andrew in Jackson County. The purpose of this loan was to enable the institution to remain open. To secure the State the trustees of the institution were to give a note and a first mortgage upon the real property — the note to draw no interest until due, and after that six per cent. At the time this act was passed there were forty-eight children cared for in that institution. There was no provision in the law, however, that the State should have any supervision over the conduct of the institution. The relationship was almost purely an economic one, although there was the secondary motive that the in-

stitution should continue to provide a refuge for orphans.³¹⁹

It was not until 1878 that the State undertook to control the conduct of private institutions for dependents. The first step in this direction was an act of March 26, 1878, providing for the incorporation of homes for the friendless under State laws. This act provided further that these homes should have authority to receive, control, and dispose of minor children of deceased fathers and those abandoned by their fathers or the children of fathers who, even though they were able, had failed to provide for them. The State was given no rights of supervision after incorporation, except such control as lay in the possibility of the withdrawal of the charter.³²⁰

By a statute approved on April 10, 1902, it was provided that any society incorporated under the laws of the State for the purpose of receiving, caring for, placing out for adoption, or in any way improving the conduct of abandoned, abused, ill treated, friendless, or orphan children, might do so in accordance with the terms of the act. Such a society became the legal guardian of the children committed to its care.

No further steps were taken looking towards State control of such institutions until the Board of Control was given supervision thereof. The Board was authorized to visit and require such information from these Homes as it should deem necessary. Each association caring for children as provided by the act was required to file with the Board of Control dur-

ing January of each year a report stating the number of children received, the number returned from families, the number placed in homes, the number deceased, the number returned to friends, and the number placed in State institutions, with such other information as the Board might require. The district court was given authority, on a showing being made that such an association had abused its trust, to revoke the charter of incorporation. The act further provided that children's associations incorporated in other States should not place children in any family within the State of Iowa until it had first furnished the Board of Control guarantees, including a bond of one thousand dollars, that no child having an incurable or contagious disease, a deformity, or one feeble-minded or vicious in character should be brought into the State.³²¹ Under this law such institutions are still operating in the State of Iowa.

DEPENDENT CHILDREN OUTSIDE OF INSTITUTIONS

Reference has already been made to the care of dependent children in the poorhouses. Iowa inherited from the States from which it borrowed most of its laws, the legal practice of using the poorhouse as the temporary refuge of pauper children, but of binding them out as soon as possible in families where they could grow up under family influences. This provision, with all of its abuses, was the most humane provision in these early laws.

Practically every code which has been adopted in Iowa has provided for this method of disposing of

children in the poorhouses. For example, the *Code of 1851* made provision for the binding out of orphans in the poorhouse as practically the only way of caring for this class of dependents. Children in the poorhouse were bound out by the directors of that institution according to this Code.³²² If the child had not been sent to the poorhouse, the judge of the county court had charge of the binding out.³²³

The same provisions obtained in the *Revision of 1860*, save that the county supervisors took the place of the judge in binding out children who had not been sent to the poorhouse.³²⁴ Under the provisions of the *Code of 1873* the board of supervisors bound out those in the poorhouse, while the county clerk was vested with authority in the cases of those children who had not yet been sent to that institution. The *Code of 1897* contained certain additions to these provisions. For example, any child under sixteen years of age confined within any poorhouse or house of refuge might be apprenticed up to the time he or she was eighteen years of age. If, however, the child was married before the age of eighteen the articles of apprenticeship became void. This Code provided that the supervisors or the board of trustees of a house of refuge might appoint a committee from its members consisting of one or more persons, subject to the approval of the district court or judge thereof, to execute the articles of apprenticeship.³²⁵ With these slight administrative changes the law relative to the binding out of pauper children has remained unaltered during the history of Iowa.

The time-honored custom of placing children in homes where they could grow up under the fostering influence of natural family life has come into popular favor again. Its return to favor, however, has not been in connection with children in the poorhouse, but has been revived to apply to children in orphans' homes, whether public or private. Two years after the Soldiers' Orphans' Home was established, in 1868, the act was passed by the Twelfth General Assembly, which provided for the adoption of any child in that institution.³²⁶ As has been noticed in a previous section, it was at a considerable later date that the placing out of children on contract instead of by adoption was incorporated in the laws of the State.

The first person to place great emphasis upon the placing-out system as against the institutional system of caring for orphans was Governor Boies. In his first biennial message on January 12, 1892, in referring to the Orphans' Home at Davenport, he urged that measures be adopted by the legislature looking to the removal of the children in this Home to the homes of respectable families. He thought it a calamity for any child to be kept in a "home", dependent upon the charity of the State after he was old enough to realize that he was dependent. Therefore, he argued that instead of building larger institutions for the reception of these unfortunates, the State should be devising measures to insure that everyone, whether fortunate or unfortunate, should be taught to do everything within his power to sup-

ply his own wants instead of being cared for through the charity of others.³²⁷

This same point of view was again presented by Governor Boies in his second biennial message in 1894, in criticising the existing law which provided that unless the parents of children in the Orphans' Home should give their consent, these children could not be placed out in families. In his judgment, there was no kindness to anyone in such a law, inasmuch as no institution could take the place of a kind and respectable family. He argued with force that an education in such an institution to the age of sixteen years, if it accomplished anything, taught the child that to become an object of charity was not a condition to be dreaded. In his opinion this was as great a calamity as could happen to the child. Moreover, he pointed out the fact that these children, if kept until fifteen or sixteen years of age, must leave the Home; and if they had no friends they must go among strangers, and at that age they were not old enough to be able to choose correctly a course of life. The Governor believed that all these considerations plainly demonstrated that it was the duty of the State to place these children in comfortable homes among respectable people as quickly as possible after entering the Home.³²⁸ While the recommendations of Governor Boies had no immediate effect, later they were fruitful in influencing the General Assembly to provide two State agents whose business it was to travel constantly about the State in order to secure homes for the children.³²⁹

A very important step in providing for the care of dependent children outside of institutions was taken when the act establishing the juvenile court was passed by the Thirtieth General Assembly and received executive approval on April 7, 1904. According to this act the district court was clothed with original and full jurisdiction. The terms of the law applied to children under sixteen years of age who were not inmates of a State institution or of any industrial school for boys or girls, and to all children except such as were charged with offenses punishable by life imprisonment or death. Moreover, it provided for dependent or neglected children as well as for delinquents. Dependent or neglected children were defined as any who for any reason are destitute, homeless, abandoned, dependent on the public for support; or who have not parental care or guardianship; or who habitually beg or receive alms; or are living in any house of ill fame or with any vicious or disreputable person; or whose home is an unfit place for children by reason of neglect, cruelty, or depravity on the part of the parents, guardian, or other persons in whose care the child may be. The term was also made to include a child less than ten years of age who is found begging or giving public entertainments on the streets for pecuniary gain for himself or others, or who accompanies or is used by such persons; or who by reason of other vicious, base, or corrupting surroundings comes within the spirit of this act in the opinion of the court. From this outline it will be seen that the definition is broad enough

to cover almost every conceivable situation in which a child might be which would be detrimental to his welfare. As such it deserves merited commendation.

Moreover, the court was given authority to commit the child to the care of some suitable institution or some industrial school provided by law, or to an institution maintained by some association whose object was to care for and find suitable homes for children. Such an association must be one of those approved by the Board of Control. The law provided also for guardianship by the institution to which the child was committed. The home or association, moreover, was made a party to the adoption when a child was adopted into the home of some family. Again, the law provided that the support of such a child was to be borne by the parents if they were able to carry the expense. The Board of Control was to designate institutions and associations to have charge of juveniles under this act, and was given the right of supervision, oversight, and visitation. These homes and associations were required to report annually to the Board of Control during the first fifteen days of January. Religious belief was to be taken into consideration by the court when committing a child to an institution. As far as practicable, the association or home, when it was controlled by a religious organization, was to be of the same religious belief as that of the parents of the child.

Moreover, this law provided for the adoption or placing out on contract of children, in all cases where it could properly be done, in such a manner that the

child would find a place in an approved family, become a member of that family, and thus have normal social relationships. No other law has ever been passed in Iowa for the care of dependent children which compares with this one in its wisdom.³³⁰

By an act approved on April 15, 1909 — an act on contributory dependency — a further step was taken. When any child was found dependent or neglected according to the definition of the act just described, the parents or any other persons having the care of such a child who had by any act or remission of duty encouraged, counselled, or contributed to the neglect of such child, or was responsible for his neglect or dependency, were to be deemed guilty of contributory dependency and proceeded against according to the provisions of this act. The district court had original jurisdiction as in the case of the juvenile court law.

If upon a hearing the court found the person guilty of contributory dependency, judgment was to be entered by the court requiring such person to do or omit to do any act concerning which complaint was made in the petition; and proceedings of this character might be continued from time to time for two years. The court could require the person to give bond to comply with the orders of the court, and might appoint a guardian for a person guilty of contributory neglect or dependency who was a spendthrift or habitual drunkard incapable of managing his own affairs. Furthermore, the court could appoint a person to find employment for the person

guilty of contributory neglect or dependency, if that person was physically or mentally able to do work, but claimed he could not find work. If he refused to work such a person was declared to be guilty of contempt. If, on the other hand, he claimed he could find work and did not do so within a reasonable time to be fixed by the court, he was likewise to be considered guilty of contempt.

Another section of this act made it the duty of the court to commit to the State Hospital for Inebriates at Knoxville such person, when the contributory dependency resulted from drunkenness. After his release the court was to appoint a probation officer to watch him, help him to get work, and aid in his reformation. In case no guardian was appointed or in case the person guilty of contributory dependency failed to supply a sufficient sum for the benefit of his family and it was deemed necessary by the court to levy upon his property, including wages, for the benefit of his family, the statute provided that he should not have the benefit of the statutory exemption.

In case it was decided to leave the child in the custody of the person guilty of contributory dependency, the court was, at its discretion, either to name the conditions necessary to remove the contributory dependency or remove the child from the custody of such person temporarily until the conditions of probation were complied with and to place the child in a juvenile detention home, if such existed, or in some suitable institution provided for by the juvenile court.

In case the person adjudged guilty of contributory dependency failed to comply with the orders of the court the child could be dealt with as an abandoned child. After the passage of the two years, during which the court might continue the proceedings against the person judged guilty of contributory dependency, if that person failed to provide a sufficient support for the child, the court could find the child abandoned. In case the child was adopted under the law relative to abandonment he was not to lose his right to inherit from the persons from whom he was taken away.

It was further provided that the law was to be construed liberally in favor of the State for the purpose of the protection of the child from neglect or remission of parental duty or from the effects of improper conduct or acts of any person who might cause, encourage, or contribute to his dependency or neglect, even though that person was not related to the child in any way.³³¹

This same General Assembly by an act approved on April 27, 1909, made a slight change in the juvenile court law with the purpose of increasing the number of courts. The superior courts were substituted for district courts in cities and were given concurrent jurisdiction in the administration of the juvenile court law with the district courts of the counties in which the superior courts were located.³³² By an act of the Thirty-fifth General Assembly, approved on February 18, 1913, Section 3165 of the *Code of 1897*, the section dealing with the support of

children by parents, was repealed and in lieu thereof there was enacted a provision making the reasonable and necessary expenses for the education of the children chargeable upon the property of both husband and wife, or either of them; and in relation thereto it was provided that they can be sued either jointly or separately for this amount.³³³

Finally, the last General Assembly took one other step that shows an increased interest in the welfare of dependent children, whatever may be the merits of this particular act. In an act approved on April 19, 1913, provision was made for mothers' pensions. This law is an amendment to the sections of the *Code Supplement of 1907* dealing with dependent and neglected children. The act provides that if the court finds that the mother of a dependent or neglected child is a widow and that the mother is poor and unable to properly care for her child, but is otherwise a proper guardian, and that it is for the welfare of such child to remain at home, the court may enter an order stating such to be the facts and fixing an amount of money necessary to enable such mother to properly care for her child. Thereupon it becomes the duty of the county board of supervisors through the overseer of the poor or otherwise to pay to this mother at such times as the court's order may designate, the specified amount for the care of the dependent or neglected child. This is to continue until a further order of the court.

A limit, however, is placed upon the amount to be paid: it must not exceed the sum of two dollars per

week for each child. Payments shall cease when any such child attains the age of fourteen years. Under this act any mother whose husband is in an institution under the supervision of the Board of Control is considered a widow.³³⁴

Thus has the State proceeded in its efforts to care for dependent children. Starting with their care in the county poorhouse or binding them out to apprenticeship in families, step by step the legislation has proceeded to a more humane and scientific care of these unfortunates. The first mark of progress is to be seen in connection with the care of the soldiers' orphans. Marked at first merely by pity and growing out of the gratitude for the heroic sacrifices of the soldiers, it has finally come to the scientific basis. Modifications have been introduced into the original plan so that not only the children of soldiers are cared for, but other dependent children as well. In place of the original motive to merely provide these children food and clothing and an education, there has come the desire to place them in surroundings in which they will have a chance to grow up in the family circle and be prepared to live in the ordinary relationships of life. Finally, the institution has become merely a temporary home where these children can be placed until they are put out into the homes of the people of the State.

Likewise, step by step, approved methods have been introduced into the private homes for children and child-placing organizations. Beginning with

sporadic movements here and there over the State to ameliorate, at least to a degree, the evil conditions surrounding children in the poorhouse, these private children's institutions have been standardized and placed under the supervision of the State Board of Control. They provide an outlet for the expression of sympathy for the child, touched by religious or personal ideals, while they supplement the rather inadequate and somewhat feeble attempts of the State to provide care for all needy children.

Best of all, constructive measures have been adopted through the juvenile court law and the contributory dependency law whereby the evil is attacked at its source. These laws have grown out of the conviction, based upon wide experience, that the dependent child can not be isolated in his treatment from his parents and natural associates. And finally, these measures have been supplemented by a provision which enables the support of the child to occur within the home of his own mother, when she is the proper person to have charge of him.

Doubtless the administration of these laws is faulty. Perfect administration must always depend upon the growth of social ideals, habits, and customs. Let these wise and constructive measures become grounded in the social life of the State and established in the mass of social sentiment and tradition, let the faults be corrected as they appear in actual experience; but by all means let not the good work that has been done in constructive legislation for the dependent child ever be given up until a plan

has been worked out which will save these children to lives of usefulness and independence.

It is a question whether the administration of these laws dealing with the dependent child should be in the hands of ordinary judges, who under the present law are the juvenile court judges, or whether it should not rather be committed to a special court or board expert in dealing with problems of the child. That, however, is a detail which should not lessen the admiration of all good citizens for the social outlook of the present laws dealing with unfortunate children and their support until some better method is devised.

XII

SPECIAL CLASSES OF DEPENDENTS: DEFECTIVES

THE FEEBLE-MINDED

Institutional care for the feeble-minded was late in being provided in Iowa, for it was not until 1876 that the State Institution for the Feeble-minded was established by the legislature. As far back as 1860, however, the General Assembly provided that idiots were no longer to be admitted to the hospital for the insane. Up until that time it had been the practice to send adult idiots to that institution. Children who were idiots were either cared for in their own homes or, if paupers, in the county poorhouse as other pauper children.³³⁵ Adult pauper idiots, moreover, were to be cared for in the same manner as other poor after this date, that is, for the most part in the poorhouses.³³⁶ While this special provision of the *Revision of 1860* was not repeated in the later codes, as a matter of fact even up to the present time many pauper idiots continue to be cared for in the poorhouses.

Slowly the social consciousness of the State was working toward a better system. An act approved on April 3, 1866, made it possible for a county to care for its indigent idiots or imbeciles in some special in-

stitution for such persons either in Iowa or in another State, the expenses to be borne by the county from which they came.³³⁷ Doubtless this act contemplated that church institutions and other institutions of a private nature should be used by the counties for the care of these unfortunates in the absence of a State institution for the feeble-minded. The superintendents of the hospital for the insane, upon the application of the guardian or friend of any indigent idiot person or of any indigent imbecile person a resident of any county of the State of Iowa, and upon approval by the board of supervisors of that county, might order such idiot or imbecile to be transferred to any such private institution. The intent of the law doubtless was defeated in actual practice by the provisions that such applications must be approved by the board of supervisors of the county concerned and that that county must bear the expense.

The law itself was, however, an indication that there was a growing sense of the necessity of the segregation of idiots and imbeciles from the ordinary insane. The fact that they were paupers, so far as the law-makers were concerned, was not to be permitted to interfere with that benevolent intention. Respect for county autonomy, however, vitiated an otherwise good law. In 1873 Dr. A. Reynolds, the medical superintendent at the Independence Hospital for the Insane, in his first report, stated that there were then in that institution, contrary to the law, two idiotic, epileptic boys who had been transferred from

Mt. Pleasant. He stated that the census of 1870 showed 533 idiotic persons in the State, and he urged that suitable provisions be made for their care and maintenance.³³⁸

The agitation for the segregation of this class of defectives and for their care and education in a special institution continued. In their report to the Governor on November 30, 1875, the Visiting Committee to the Insane Hospitals reported that their inquiries showed a total of not less than ninety-two pauper idiots in the poorhouses and under the care of local authorities that year. Besides these, they estimated that there were in the State at that date more than eight hundred other idiots — all of whom, it was declared, should be cared for in public asylums.³³⁹

Governor Carpenter in his second biennial message (1876) said that a school for the feeble-minded would have to be established in the course of time, and suggested that the buildings of the discontinued Soldiers' Orphans' Home at Glenwood be used for this purpose.³⁴⁰ Along with this suggestion he made various others as to the use that might be made of the buildings at Glenwood, such as a hospital for the chronic insane and a hospital for inebriates.

The Sixteenth General Assembly, by an act approved on March 17, 1876, diverted the property previously used by the Soldiers' Orphans' Home at Glenwood to the uses of an Asylum for Feeble-minded Children. A board of three trustees was provided for, one of whom must be a resident of

Mills County. The purpose of the institution was to care for, support, train, and instruct feeble-minded children, and the emphasis was placed at that time upon education rather than upon segregation. Admission to the institution was limited to children between the ages of seven and eighteen. They were to be received upon application by the father and mother, or either, if the other was either dead or insane, or by the guardian; and in all other cases upon application by the county supervisors. Parents or guardians were to support the children in this institution to the extent of their ability. The question of their ability was to be determined by the county board of supervisors. In case such persons were unable to support them the children were to be supported at the charge of the State.³⁴¹

The Eighteenth General Assembly, by an act approved on March 26, 1880, at the suggestion of Governor Gear in his second biennial message, provided that the expense of the transportation of pauper children to the institution and of providing clothing for them should be chargeable upon the county from which they came. This was a move in the direction of county responsibility which, as has been seen, has played so great a part in the support of all indigent persons in the State of Iowa.³⁴²

One further step was taken in the same direction by the next General Assembly in an act approved on March 10, 1882, which organized the machinery by which the railroad fare and the charge for clothing were to be collected. The bill for these items was to

be transmitted to the county auditor, who was to collect it if possible from the relatives or guardian; and if it could not be collected in this manner it was to be paid by the county. This same act changed the name of the institution from Asylum for Feeble-minded Children to Institution for Feeble-minded Children, and established a custodial department for the idiotic children who could not be educated.³⁴³

So satisfactory to public opinion were these provisions that no further agitation of the subject appeared in the history of Iowa legislation until Governor Jackson, in his biennial message of January 14, 1896, voiced the growing conviction that segregation was of greater social importance for this class of defectives than education, and recommended that the law be so changed as to admit not only children between the ages of five and eighteen into the institution, but also all feeble-minded persons in the State.³⁴⁴ This wise suggestion, however, was not adopted by the legislature until a much later day.

The *Code of 1897* contained a section requiring the county superintendent to report each year to the superintendent of the Institution for Feeble-minded Children all persons of school age who because of their mental defects were entitled to admission to that institution.³⁴⁵ This was an effort to secure the elimination of all such children from the homes of the State and to make certain that they would receive an education in an institution especially adapted to their condition. Their support was provided for as before — by the parents and guardians if they were

able; if not, by the county from which they were sent. The age limit in the meantime had been raised from eighteen to twenty-one years.

The recommendation of Governor Jackson was repeated by the Board of Control in its first biennial report in 1899,³⁴⁶ and these recommendations were in part adopted by the Twenty-ninth General Assembly when, in an act approved on April 7, 1902, it provided that all feeble-minded women under forty-six years of age might be admitted to the Institution for Feeble-minded Children at Glenwood. They were to be supported there on the same basis as the children. By this act one of the most important steps was taken in the custodial care of a most dangerous class of defectives so far as the future welfare of the race is concerned.³⁴⁷

The Thirty-third General Assembly seven years later, in an act approved on March 29, 1909, extended the same provisions to feeble-minded men under forty-six years of age who were residents of the State.³⁴⁸ One further step was taken by the Thirty-fourth General Assembly in applying negative eugenics to the feeble-minded in an act approved on April 10, 1911, which provided for the unsexing by vasectomy or ligation of the fallopian tubes of feeble-minded persons and idiots and such other mental defectives as the judgment of a group composed of the managing officer of the institution, the surgical superintendent of the institution, and the members of the State Board of Control, should determine.³⁴⁹

The last General Assembly in a resolution approved on April 25, 1913, provided for a special hospital for consumptives at the Institution for Feeble-minded Children and a special cottage for girls.³⁵⁰

Thus, step by step the care of the feeble-minded paupers has been humanized and given social vision in the State of Iowa. So far as legislation is concerned there need not be a single feeble-minded person in a poorhouse in Iowa under the age of forty-six years. In the Institution for Feeble-minded Children at Glenwood, provision has been made both for the education of those who are educable and for the custodial care of the incurable up to the age of forty-six years, so far as the accommodations provided by the legislature will permit.

Beginning with the care of these unfortunates in the poorhouses of Iowa, provision has been made whereby society shall be protected from their irresponsible acts, and for an institution where they may be given a good home in which to spend their days under proper care. Moreover, provision has been made for the education of those who are capable of some training; and finally, power has been given the authorities to try out asexualization on these derelicts of humanity. Only one further thing at the present time needs to be done for the feeble-minded in Iowa, namely, there remains need for much more extended provision for the care of this class at Glenwood so that those who are still at large in the State may be placed there.

THE INSANE

The Territorial laws of Iowa provided for the care of pauper insane. By an act approved on January 19, 1839, all insane persons who had no property for their support were declared to be entitled to all the benefits of the laws of the Territory for the relief of the poor. Overseers of the poor and all other persons concerned were directed to govern themselves accordingly.³⁵¹

The act approved on January 14, 1841, contained practically the same provisions as were later embodied in the *Code of 1851*. Section twenty-five of the Territorial act, however, provided that all the expenses for caring for an insane person and for the management of his estates by a guardian appointed by the court were to be paid out of his estate, if possible, and if not, out of the county treasury. In case his estate was not sufficient to provide for his support he was entitled to be cared for by the overseers of the poor as other paupers. Like other paupers, his father and mother, children, grandchildren, or grandparents, if of sufficient ability, were required to support him.³⁵² This law governed the support of indigent insane persons until the enactment of the *Code of 1851*. There is no provision in this Code under the sections dealing with insanity for the care of indigent insane. This was provided for under a separate section in the *Revision of 1860*.³⁵³ In these Codes, however, practically the only change was that the county court as a court of probate was invested

with the power to appoint guardians and provide care for the insane person.

Very early in the history of the State agitation began for the establishment of special institutions for the care of the insane. Governor Stephen Hempstead, in his second biennial message under date of December 8, 1854, urged the establishment and endowment of an asylum for lunatics. He advanced in favor of this recommendation the fact that there were numbers of these unfortunates in the State who had to be removed by their friends to other States for treatment or else confined in the county jails and poorhouses.³⁵⁴ Governor Grimes, in a special message of December 22, 1854, in reply to a resolution of the Senate calling upon him for information relative to the deaf, blind, dumb, and insane in the State, estimated that there were about 130 deaf and dumb, 112 blind persons, 95 lunatics, and 211 idiots, or if one-half the idiots were classed as insane, then 201 insane. He said that a large majority of these lunatics were either wholly uncared for or confined in loathsome county jails with felons and outlaws.

Furthermore, Governor Grimes quoted from a letter of Professor McGugin, who stated that he found many of these unfortunates confined in jails and there incarcerated in felons' cells, not because of any crime, but because they had lost their reason and self-control. Among these were some who had been among the most respectable, moral, and intelligent citizens. Many of them, he said, were women.

Others were confined in small tenements or apartments poorly warmed or ventilated, where they were kept confined without hope of recovery. On the basis of these facts Governor Grimes urged that the legislature appoint commissioners to visit asylums in other States and obtain plans for buildings for a State institution.³⁵⁵

As a result of the urgency of the situation thus brought to the attention of the legislature, by an act of January 24, 1855, there was established the State Insane Asylum at Mt. Pleasant, Iowa. This institution was the only one in the State of Iowa for the next thirteen years.³⁵⁶ So inadequate gradually became the provisions in this institution for the accommodation of all the insane in the State, that the Seventh General Assembly authorized each county judge to allow the sum of fifty dollars a year out of the county treasury for the support of any idiot or lunatic resident in any county who was not supported by the county in the jail or poorhouse.³⁵⁷ This provision probably referred to lunatics who were not admissible to the State Insane Asylum because they were considered incurable or who had been dismissed as incurable. The same act provided that any insane persons who under the law could not be admitted to the hospital for the insane for any cause, should be committed by the probate judge to the sheriff or someone else who should take charge of him until the impediment to his admission to the State Hospital was removed. If necessary, such person could be confined in the county poorhouse or jail. Any neces-

sities were to be supplied by the county if the person was poor. Furthermore, it was provided that while such a person could be confined in a jail he was not to be confined with a person charged with a crime. And finally, indigent insane were to have the preference as a charge upon the county treasury over other indigent persons equally meritorious.³⁵⁸

In the *Revision of 1860* the provisions relative to vagrancy were made to apply to insane persons not in charge of some discreet person, except that the restraint to which they were to be subjected was ordered to be as mild and gentle as possible. This Code contemplated, however, that if there was some friend to whom an indigent insane person could be committed, that should be the procedure. In case this could not be done, the same provisions as were found in the acts of the Seventh General Assembly already referred to, were to operate. In general, pauper lunatics discharged from the hospital, or who were not admissible thereto, were to be cared for in the same manner as other poor.³⁵⁹

The *Revision of 1860* also incorporated the act of March 23, 1858, providing for the admission into the State Asylum of public patients, supported at the expense of the county, on the written certificate of the county judge where such patient lived, and authorized the superintendent to receive and care for such persons at the expense of the county. The expense was charged back to each county by the insane asylum, and the county clerks were authorized to collect such expense from the property of the patients or

from such persons as were legally bound to support them, if possible.³⁶⁰ In actual administration this plan worked no better in the case of the insane than it did in that of the feeble-minded. And so, Governor Kirkwood in January, 1862, recommended that the law be so changed that the counties should pay in advance for the support of their insane in the State Hospital.³⁶¹

The practice from this time on vacillated between caring for all cases of the insane in State institutions, caring for incurables or those not admissible to the State Hospital by the county, and later the care of them by the county in a county institution for the insane.

Governor Kirkwood in his message in 1862 also urged the legislature to appropriate money with which to furnish a wing of the Hospital for the Insane. He referred to the misery, the degradation, and the hopelessness of cure in the cases of insane persons who were confined in cells in the county jails.³⁶² The growing task, however, was too great for the State, especially under the heavy expense incidental to the Civil War, and so an attempt was made by legislative enactment to make the county officers more conscious of their responsibility for the proper care of the indigent insane.³⁶³

So great was the pressure upon the State institution for the insane that Superintendent Ranney in his report to the Governor on November 1, 1867, said that the asylum or hospital, as it was now called, at Mt. Pleasant was already filled to overflowing and

that chronic public cases must not be sent to that institution unless the superintendent first ordered it. The superintendent, however, turned no such cases away, with the result that the pressure became so great under this humane policy that on April 6, 1868 there was approved a law by which another hospital for the insane was established at Independence.³⁶⁴ Even this however, did not relieve the situation due to the increased number of insane persons and the growing consciousness of need for institutional care. An act approved on April 12, 1870, therefore, provided that public insane patients who could not be admitted to the Hospital for the Insane on account of lack of room or other reasons, should be cared for by the directors of the poorhouse or the overseers of the poor at the expense of the county. In case there was no poorhouse and if no more suitable place could be found, they were to be confined in the county jail in charge of the sheriff.³⁶⁵ Thus once more the growing sense of need and the economic motive conspired to thrust back into the poorhouses and jails those whose only defect was mental unsoundness. This provision was incorporated in the *Code of 1873*. Moreover, this Code gave the trustees of the State Hospitals for the Insane the right to send insane patients back to the counties.³⁶⁶

After the close of the war agitation commenced against the care of indigent insane in the poorhouses. Dr. Mark Ranney, superintendent of the Hospital for the Insane at Mt. Pleasant, in his report to the board of trustees in 1871, reported that many of those

whom he could not receive into his institution for lack of room were kept in jails and in such poorhouses as existed at that time.³⁶⁷ Attention was directed to this matter also by the report of the Visiting Committee to the Governor in 1875. This committee reported that in response to a circular letter sent to the authorities in every county in Iowa during January, February, and March, 1875, they received reports of one hundred and thirty-two insane persons kept in various poorhouses in Iowa under the local care of the county authorities. A large proportion were women and all of these were indigent insane. The committee urged that provisions should be made for caring for all the unfortunates of this class and particularly for the pauper insane, with suitable and special accommodations under the control of officials directly responsible to the State. On this point the committee said:

The experiences of all communities, and the results of the special inspections of the poor-houses in New York and Pennsylvania, demonstrate that the retention in such places, of cases of insanity and idiocy, is not only a gross violation of the commonest sentiments of humanity, but that such disposition, especially as to females, inevitably and invariably leads to results alike opposed to public morality and public safety.

The committee added that in one of the county poorhouses in Iowa a few years before an investigation into conditions and discipline, especially as to the relations between the ordinary male paupers and the insane females, resulted in such shocking dis-

closures that the county authorities immediately established the rule that no cases of insanity should thenceforth be placed in their poorhouse. The Visiting Committee urged that a similar rule should by legislative enactment be established for all the poorhouses throughout the State. Furthermore, it urged that pending the completion of State hospitals containing accommodations for all of the insane of Iowa, there should be a statutory provision for constant general supervision by State officials of all the county institutions of detention, particularly including jails, poorhouses, and public and private hospitals in which the counties may have provided for the care of insane claimants upon their care.³⁶⁸ Unfortunately it was not until a much later date that these sensible recommendations were written into the statutes.

The pressure became so great in the State hospitals, in spite of the exclusion of some persons who should have been in those institutions, that the trustees in June, 1878, felt constrained to take other measures possible under the laws to relieve the situation. They took advantage of section 1425 of the Code which permitted them to order the discharge from the asylum of incurables and harmless patients.³⁶⁹ This procedure only made the already bad situation in the county poorhouses very much worse. At that time but two counties were prepared to take care of the insane, and the return of these cases in most instances, if the statements of the State Board of Control written twenty years later may be be-

lieved, were carried out against the expressed wish of the county authorities.

The effect of this order was to force many counties to erect county asylums and others to take care of these incurable and harmless insane in the poor-houses. In 1899 more than twenty counties had provided county asylums. The policy of keeping down the numbers in the State asylums to manageable proportions was continued until the time of the opening of the third State Hospital for the Insane at Clarinda. By that time the counties had become accustomed to thus caring for their incurable insane and wished to continue to do so. When the Board of Control made its first report in 1899 the county commissioners of the insane had come to the opinion that they were authorized to order the discharge of any inmate of the State hospitals coming from their counties and have them returned to the counties at such time as they thought best — a theory which the new Board of Control hastened to upset as vicious in its tendencies.³⁷⁰

After the wholesale delivery of insane patients from the State to the county institutions had been effected in 1878, the Visiting Committee to the State Insane Hospitals made an inquiry to find out the numbers of insane in the county institutions and the conditions surrounding them. They reported that out of eighty-five counties replying to their inquiry, forty-nine reported three hundred and thirty-five patients; while thirty-six retained no insane patients within the county. Only three or four counties re-

ported that they had suitable arrangements for the care of these patients: in most cases they were kept in the county poorhouse. Of the forty-nine counties twenty-four reported that they preferred to keep the insane in their own county rather than in the State institutions, and in every case their preference was based solely upon the ground of economy. The highest cost reported by these counties for the care of the indigent insane was reported at seven dollars, the lowest at sixty-six cents, and the average at two dollars and a half per week.

The committee declared that in their opinion it was for the best interests of all that the State should provide at once for the accommodation of this class of the insane.³⁷¹

These recommendations were without legislative results, however, and for more than ten years nothing more was heard upon the subject. Governor Larrabee, in his second biennial message (1890) reported that he had appointed Mr. J. W. Rich to make an investigation of all the State charitable and correctional institutions, except the penitentiaries. Mr. Rich's examination of the jails, poorhouses, and county asylums for the insane showed in general that many of the jails were damp, ill-ventilated, and defective in construction; and that there was great need for improvement in these institutions as well as in the county asylums for the insane.

Mr. Rich visited seventeen counties in various parts of the State. Two of these, both in the western part, had neither poorhouse nor asylum for the in-

sane. Only one of the counties visited, namely, Polk County, had special attendants for the care of the insane. In five of the seventeen counties visited there was no separation of the sane and insane paupers. He found the strong room, the dark room, the ball and chain, and locks and chains used in restraining the insane. In these seventeen counties he found three hundred and four insane persons provided for. Three of the counties made provision for those of their insane who were not in the State hospitals in private institutions. Mr. Rich estimated that there were thirteen hundred and fifty insane persons in the various county poorhouses and asylums; and he noted the fact that those in the county institutions were supposed to be incurable and that many of them became unmanageable and had to be restrained by force. Furthermore, nearly ninety per cent of the insane within the walls of the State asylums were also incurable. This latter fact he used as a basis for the argument that the State was bound to make provision for the one class of incurables as well as for the other. This investigation convinced Mr. Rich that the State should care for all its insane in State institutions. If that could not be done, then the various county asylums should be consolidated into district asylums. He concluded that the county system might be economical as it was then administered, but that was its only recommendation, for it was not humane.³⁷²

The *Code of 1897* retained the provisions of the *Code of 1873*.³⁷³ Gradually, however, there was be-

gun the practice of separating the insane inmates of the poorhouse from the other paupers. This practice was begun in Scott County during the early seventies, as a result of the unfortunate experiences already referred to.³⁷⁴ But in spite of this tendency the Board of Control in its second biennial report (1901) stated that it found in the first half of that year seventy insane persons in poorhouses who had not been adjudged insane.³⁷⁵ It was cheaper to support these persons in the poorhouse than in a State institution.

Moreover the Board found other conditions in the county institutions that were anything but good. In its first biennial report in 1899 the Board declared that the State permitted various county and four private institutions to retain insane patients, and that about all that the county asylums and poor farms could do for the insane was to clothe and feed them. Some of the insane were shut up all of the time and never saw the light of day except as they observed the sky over the top of a high board fence surrounding their pen or looked out through the windows of the rooms in which they were confined. Many were compelled to sleep at night in dirty, dingy cells without ventilation, without anyone to look after them during the night; and hundreds, it was reported, were in constant peril of their lives from fire because of want of proper care and protection. They found women, sometimes at night and often in the day time, shut up in charge of a man who was supposed to look after them when their condition was

such as to demand attention. Furthermore, many were confined in these institutions who, in spite of the fact that they were supposed to be harmless and incurable, were claimed to be so violent that they were kept in constant mechanical constraint or locked up in their cells.

In the four private asylums the Board found four hundred patients, about half of whom were sent there by the various counties of the State which had no means of caring for the insane. These institutions were under no regular supervision or control. Moreover, in the county institutions examined they found women inmates who had no attendant or night watch of their own sex, save as some attention could be given to them by the wife or daughters of the steward, and sometimes even this was lacking. In other cases they found women inmates locked up day and night in a building for the care of the insane with no sane person staying in the building day or night, the only attendant being a man who slept outside the building and cared for them in the day time. At several institutions insane women and pauper men had ample opportunity to be together if they wished. In spite of the provisions of the Code to the effect that women when adjudged insane were not to be taken to the State hospital without the attendance of some other woman or some relative, and that they were not to be placed in confinement without at least one woman attendant in charge of them — in spite of these provisions men attendants cared for the in-

sane women patients in some of the county asylums and carried the key to their apartments.

Moreover, in many county asylums the Board reported that more than one patient was bathed in the same water—in some cases four. In one of the largest as well as one of the best of these institutions the steward, when questioned concerning this practice, expressed himself as considering it all right and he could see no reason for changing the custom. If such things were tolerated in the best of these institutions, asked the Board, what might be expected in the smaller and poorer ones where all the water for bathing had to be carried considerable distances. In only one of the institutions examined did they find a nurse regularly employed; in none of them was a night attendant employed. In one case two men were found chained to the wall inside of the building, and in one three women were shut up in a room too foul and filthy to be described. Several instances were found where insane men and women associated and ate with the paupers. In some institutions men and women were kept in dark, ill-ventilated, damp, and disease-breeding basements. In none of the counties visited did the Board find the patients receiving any attention from the time they were locked up at night until morning, unless they were sick or unless attention was attracted to them by some unusual noise. In several cases there was no regular medical service, and in most institutions there were no religious services, no amusements, and in nearly

all cases there was a lack of sufficient exercise for the patients.

As a result of these conditions, the Board recommended that no county not having an insane asylum should thereafter be permitted to keep insane patients; that all private and county institutions for the care of the insane be placed under the supervision of the Board of Control; and that no such institutions be permitted to keep insane patients without complying with the requirements of the Board. They further recommended that the Board be made the judge as to whether in any case a patient was in such a condition as to warrant his removal from or his retention in a county asylum; that the Board be given the power to order a transfer of the patients from a county asylum to a State hospital, or from the hospital to the county asylum at the expense of the county concerned; and that no patient be discharged from a State hospital on the application or order of any person or board unless first approved by the Board of Control.³⁷⁶

These recommendations have not as yet, however, been written into the statutes of the State. The last legislation on this subject was the provision for a special room for the detention and examination of the insane in the county hospital, enacted by the Thirty-third General Assembly and approved on April 6, 1909. Curiously enough, this provision was made obligatory only in case the hospital was located at the county seat.³⁷⁷

Thus at the present time the system of caring for the indigent insane in Iowa is rather complicated. Those whom the insanity commissioners deem curable are supposed to be sent to one of the State Hospitals for the Insane at the expense of the county. The fact, however, that in six months time the Board of Control found seventy-two persons in poorhouses who were insane, but had not been adjudged so, would indicate that the intent of the law is sometimes evaded. Those cases which are pronounced chronic by the authorities at the Hospital for the Insane are sent back to the county poorhouses for support. Gradually there has grown up the practice of segregating the pauper insane from other paupers by placing them in a special ward devoted to the insane. In more than half of the counties this has gone to the extent of providing a separate institution for the insane paupers.³⁷⁸ At the present time they may still be retained in jails, but if kept in poorhouses their care is subject to oversight by the State Board of Control. If history has shown anything it has shown the necessity for a closer State supervision of the care of this unfortunate class of paupers.

Out of the reaction against the abuses in connection with the care of insane in the poorhouses of Iowa two suggestions were born. One proposed that the State should build an asylum for the care of the chronic insane. The enormous expense of such hospitals as the State had already built had been dem-

onstrated. Moreover, it was beginning to appear that the chronic insane did not need the same kind of care as those who gave promise of cure. The Visiting Committee in its report to the Governor in 1875 recommended that the State build cheaper asylums for the chronic insane, leaving the expensive hospitals for the treatment of the incipient and hopeful cases.³⁷⁹ In line with this suggestion Governor Carpenter, in his second biennial message, suggested that the discontinued Soldiers' Orphans' Home at Glenwood be used for the chronic insane, thus relieving the crowded condition in the insane hospitals and providing State care for the large class of unfortunates who were then being cared for in the poorhouses and sometimes in county jails.³⁸⁰

The recommendation for an asylum for incurable insane was repeated by Governor Gear in his first biennial message in January, 1880. He called attention to the report of the Visiting Committee in which this policy had been recommended. In support of his recommendation he urged the fact that the returns from ninety-six counties showed that there were in jails, poorhouses, and county asylums, three hundred and sixty-eight insane persons maintained at county expense. The presumption, he argued, was that a large number of these persons were incurable; but from the very nature of things they could not receive as good care in these institutions as they could in a well-ordered State asylum. He cited the example of a number of eastern Commonwealths to show that such an asylum would be much

cheaper than the existing county hospitals in Iowa.³⁸¹ In 1882 Governor Gear repeated the same recommendation, urging that a large asylum be erected somewhere near the center of the State to care for those who were incurable, whether found in the State hospitals or in the county institutions.³⁸²

Gear's successor, Governor Sherman, took practically the same ground. Moreover, in his first biennial message two years later, he stated that on the first of the previous November there had been reported to him five hundred and nineteen insane persons in county almshouses, one hundred and thirty-three in private asylums, fifty-eight in the homes of relatives, and fifteen in county jails.³⁸³

Unfortunately, these recommendations have never been followed up by the necessary legislation. The specific recommendation that the institution at Glenwood should be turned over for the use of the insane was made impossible by its being transformed into a school for the feeble-minded. The building of a special institution would mean the putting of money into another State institution which would require a considerable sum. Moreover, since there was to be only one such institution there would be difficulty in determining where it should be located.

Those who had made a special study of the situation in the State and had also looked into the practice of the older Commonwealths of the East were doubtless right in their recommendations. The care of the chronic insane will never be properly performed when supervised by county authorities. The only

other alternative is the one which was adopted later in Iowa, namely, the plan of putting the insane in the county poorhouses and asylums under the control of some State body like the Board of Control. This plan, while it has worked very much better than the earlier system, still leaves much to be desired, as the Board itself has frequently pointed out in its reports.

The other movement which grew out of the reaction against keeping the insane in the poorhouses and jails was a movement for the establishment of county asylums for the chronic insane. Governor Jackson in his biennial message on January 14, 1896, referred to the fact that the State was then keeping eight hundred and sixty-two insane in the county poorhouses and in county and private asylums. He urged that they could all be kept in one institution at but little greater expense; and he characterized the institution method as just and humane, while he considered the care of insane by counties unworthy of a great State.³⁸⁴

The legislature, however, did not agree with the Governor. The *Code of 1897* made no provision for such an institution. It did, however, contain a new section providing for a county insane fund, in accordance with which the supervisors were to include a tax of one-half a mill or less in the regular county levies for the purpose of raising a fund for the support of such insane persons as were cared for and supported by the county in the insane ward of the poorhouse or elsewhere outside the State hospital.³⁸⁵ Evidently the purpose was to provide more adequate

support for the care of the insane in the county institutions which had grown up.

In his biennial message of January 11, 1898, Governor Drake remarked with disfavor upon the then recent tendency to care for the incurable insane in county asylums or insane wards of the poorhouses. He argued that the patients were not so likely to have expert care and treatment as they would have in a State institution; and he thought that the tendency ought to be discouraged.³⁸⁶ But the Governor was fighting a losing battle, for already too many of the counties were taking care of their pauper insane in this fashion to be willing readily to give up the plan.

The legislature endeavored to make some amends when, two years after the establishment of the Board of Control, it gave that Board supervision over the county and private institutions where insane were kept. Moreover, the Board of Control, after its establishment in 1898, has frequently urged State care of the insane. In its second biennial report in 1901 the Board said that while in many counties, even before the creation of the Board, the insane were supplied with kind and skillful attendants, good food, and sufficient clothing and were given all the care which could reasonably be demanded, in several counties they were treated with less consideration than the farmer gave his stock. Little or no attention was paid in such counties to the cleanliness and personal habits of the inmates; they were seldom if ever bathed, and as many as six were sometimes

bathed in the same water. The Board mentioned one case where a young man was given charge of six insane women, and other cases where men had unobstructed access to the rooms of women.

Again, in its report of 1903 the Board of Control declared that in few, if any, of the county and private institutions were the insane so well cared for as they would be in State hospitals, and urged that this fact should be sufficient to prevent the construction of new county institutions for the insane and a strong argument in favor of closing those already in existence. This, moreover, was their opinion, in spite of the fact that two years before they had reported that State inspection and regulation of these institutions had resulted in the improvement of some and the closing of others. In all the smaller institutions the insane were treated in practically the same manner as the paupers, although the law contemplated that they should receive different treatment and in separate apartments.³⁸⁷

The last General Assembly, in an act approved on March 25, 1913, expressed the growing sense of impatience with the county care of the pauper insane by providing that no patient whose relative or guardian pays the expenses of his keep in the State Hospital for the Insane should be transferred to the county asylum except with the written consent of such relative or guardian. It further provided that a patient who is kept at the State Hospital for the Insane may be transferred to the county institution only on the joint written request of the board of

supervisors, or the commission on insanity of the county to which the patient belonged, and the Board of Control.²⁸⁸ By this act the Board of Control is given coördinate authority with the county officials in transferring pauper insane to the county institutions.

It may seem strange to one who is not acquainted with the force of economic motives in these matters that such primitive methods as are still in vogue should have continued in spite of the agitation of the last forty years and the recommendations of visiting committees, Governors, and the Board of Control. When, however, the question of the support of the pauper insane arises and the legislative history of that support is examined one can easily understand why primitive methods have triumphed: the large numbers of insane who were to be cared for by a growing Commonwealth and the dominance of economic over humanitarian and scientific motives among the people account for all the facts. In the general survey of the care of the insane the policy, which was early in vogue in Iowa both as a Territory and as a State, has been noticed. This policy was based upon the method of caring for the poor: support by relatives, if they were able, or through the proceeds from the insane man's estate; and if neither of these means of support were available, then support out of the county treasury. As the State institutions for the insane were established, this method had to be modified to some extent. As has been seen,

however, the only modification was that the expenses were paid by the State and were charged back to the county, which either paid them itself or collected them from those who were legally chargeable.

A great deal of difficulty arose in connection with this question of support by reason of the law of settlement, applicable to all pauper insane, as well as to other paupers. A number of acts were passed by the General Assembly regulating the support of insane paupers who had no legal settlement in the State of Iowa. The Twenty-first General Assembly provided that such a person found to be insane in a county might be sent to the place of his legal settlement by an order of the commissioners of insanity directed to the county sheriff.³⁸⁹ Provision was made in another law for the settlement of disputes between counties as to the legal settlement of an insane person in the State hospital.³⁹⁰ Moreover, an act of the Twenty-fourth General Assembly made a county from which any soldier, sailor, or marine had been admitted to the Iowa Soldiers' Home, responsible for all the costs connected with the investigation and with his disposal.³⁹¹

Loose administration of these laws permitted abuses. The counties were very keen to discover after a patient was placed in the State institution, that he had no legal settlement in the county from which he was sent. Governor Jackson, in his bien-nial message of 1896, called attention to the fact that in the State Hospitals for the Insane there were three hundred and thirty-nine patients maintained

by the State at large because they had no settlement in any county in the State. Of these twenty-seven had their residence abroad, twenty-eight belonged in various eastern and southern States, twenty-four in far western States, thirty in Illinois, fourteen in Nebraska, fourteen in Missouri, twelve in Wisconsin, eight in Dakota, and seven in Minnesota. Thus there was a total of eighty-five inmates in the State hospitals of Iowa who belonged in neighboring States. Thirty-nine claimed to have a legal settlement in Iowa, but the county was unknown; and one hundred and thirty-six others had no residence. The Governor sharply criticised the commissioners of the counties and the police for sending to the hospitals these people instead of returning to the proper places those who resided in other States, and urged that the law be changed at once so that this burden need not be borne by Iowa.

This was an appeal which met with a ready response from the legislators, and the General Assembly passed an act providing that the trustees and the superintendent of the Hospital for the Insane might remove any patient who had no legal settlement in the State to the place of his settlement and pay the expenses out of the State treasury. Further details regulating the payment of the expenses connected with the examination and care of an insane patient who had no settlement in the county in which he became insane were enacted by the Thirtieth and Thirty-fifth General Assemblies. In general, the effect of these acts was simply to make the county

where the insane person was found pay the expense in the first instance, and then charge it either to the county of settlement (if within the State) or to the State (if the place of settlement was elsewhere), instead of committing the administration of the law in this respect to a special board or commission — a plan which has worked so successfully in New York State.³⁹²

By an act approved on April 9, 1906, however, the General Assembly provided that the non-resident insane within the State were to be cared for at the expense of the State in one of the State hospitals to be designated by the Board of Control. The Board, following the New York method of handling the matter, was made responsible also for the removal of insane persons having settlement in another State or the charging of the expense of support to the proper county, if it was found that they had a settlement within the State of Iowa.³⁹³ It was not until the Thirty-fourth General Assembly passed an act approved on April 1, 1911, that a previous change in the poor laws was made applicable to the support of the pauper insane. This change made the estates of such persons and all people legally responsible for their support, instead of the county as hitherto, liable to the State for a reasonable sum for their care and maintenance.³⁹⁴

It is very apparent that the endeavor to place financial responsibility for the care of the indigent insane upon the county in which such persons had a legal settlement was responsible for many of the

backward features of the laws for the care of this class of unfortunates. Had the State come out squarely and provided for their care at State expense, doubtless there would have been abuses: probably there would have been cases of counties sending to the State hospitals for the insane people whose only defect was poverty. Whether that, however, would have been worse than the condemning of the people in the poorhouse to associate with insane people and providing the insane only with the poor accommodations there to be found is open to question.

It is further to be observed that had the State taken under its care the chronic insane, as was so often suggested, the abuses which have been mentioned as being possible would have been more easily detected and remedied than those which actually occurred. In this case, as in the case of the feeble-minded, and especially as in the case of children, the attempt to apply the county system of responsibility in the care of dependents has worked badly. The only redeeming feature in this whole history of the county care of these dependents, whether of children, feeble-minded, or insane, has come after State control was introduced. Only in so far as the institutions caring for these unfortunates have been strictly controlled have they been improved and made up-to-date. Moreover, the abuses which still remain are due to the lack of strict and careful State control. There is not a county in the State of Iowa which has an asylum for the insane separate from the county poorhouse (the one being supervised and

regulated by the State while the other is not) in which a comparison does not show a contrast between the conditions prevailing in these two institutions. In the neighboring State of Wisconsin, where the county system of caring for the chronic insane is very much further developed than it is in Iowa, there is evident this same contrast between the county asylum and the county poorhouse — and this is true in spite of the fact that in that Commonwealth there is a quasi State control over the poorhouses. This control is, however, not so strict in the case of the poorhouses as in the case of the county insane asylums.

THE DEAF AND DUMB

Sympathy for those people who could neither talk nor hear and the nation-wide movement championed by Mr. Howe and Professor Gallaudet in the East early led the legislature of Iowa to make provision for the care of the deaf and dumb.

The *Code of 1851* provided for the payment from the State treasury annually of not more than one hundred dollars to each deaf and dumb person between the ages of ten and thirty years, which amount was to be applied in paying for their education. This provision goes back to the act approved on January 15, 1849, in which the amount named was fifty dollars with a maximum of not more than one hundred dollars.³⁹⁵ In 1855 the General Assembly provided for the establishment of an institution for the deaf and dumb. According to this act every such person in the State of suitable age and capacity was

to receive an education at the expense of the State,³⁹⁶ while the previous provision was for an education at State expense either outside a special institution or else at an institution in another State.

The institution for the education of the deaf and dumb thus provided for was first located at Iowa City, at that time the capital of the State. It was conducted in a building rented by the State for three hundred and seventy-five dollars a year even as late as 1864,³⁹⁷ and it was not until 1868 that a measure was introduced into the legislature providing for the erection of a building for a school for the deaf and dumb. In that year a bill was introduced as House File No. 145 providing for the erection of such a building.³⁹⁸ On April 7th of that year an act was approved which accepted the grounds located near Council Bluffs³⁹⁹ and selected by the commission appointed under an act approved on April 3, 1866. On the same day an act was passed providing for the education of the deaf and dumb whose parents could not afford to pay the thirty dollars per quarter required by the statute for the support of inmates of that institution. The law provided that this amount in such cases should be paid by the county supervisors.⁴⁰⁰ The difficulty of securing the admission of a person who needed the facilities which this institution provided were obviated, which was not true in the case of the Soldiers' Orphans' Home, by a provision that the county superintendent of schools was required to report to the superintendent of the institution for the deaf and dumb all persons

of school age in his county whose hearing and speaking faculties were such that they could not obtain an education in the common schools.⁴⁰¹

A measure was passed by the last General Assembly relating to the care of this class of unfortunate dependents: an act approved on March 29, 1913, provided that every resident of the State between five and twenty-one years who was deaf and dumb or so deaf as to be unable to acquire an education in the common schools, and every other person between the ages of twenty-one and thirty-five who should secure the consent of the Board of Control, was entitled to receive an education in the institution for the deaf and dumb at the expense of the State. Thus the age limit was extended because of the realization of the fact that many of those who were beyond school age could be taught useful trades by which they could support themselves, and the county superintendent was required to report all such persons between the ages of five and thirty-five.

The State's record in the care of the indigent deaf and dumb is in striking contrast with its care of children and insane persons in the poorhouses, and is very similar to its record for the care of the feeble-minded. One can point to the care of the feeble-minded and the deaf and dumb in Iowa with a feeling of pride. On the other hand, when one thinks of the atrocities committed on defenseless children kept in poorhouses, and the sufferings endured by insane paupers in the State of Iowa during the last

fifty years, he must hang his head with shame and burn with indignation.

THE BLIND

Public care of the blind in Iowa began early. On January 15, 1849, at the second session of the General Assembly the same provision was made for the instruction of the blind as for the deaf and dumb. That is to say, the act provided that the sum of fifty dollars should be paid from the State treasury annually to the parents or guardian of such a person to be applied in defraying the expenses of his education. In no year was the amount to be more than one hundred dollars. This provision was also incorporated in the *Code of 1851*.⁴⁰²

An Asylum for the Blind was established by an act approved on January 18, 1853.⁴⁰³ All blind persons resident in the State and of suitable age and capacity were to be admitted to this institution and given an education at the expense of the State, according to the provisions of an act approved on January 22, 1855⁴⁰⁴ — a law which was modified to a certain extent by an act of the Eleventh General Assembly approved on March 22, 1866, according to which the clothing of the paupers in the “Institution for the Education of the Blind” was to be furnished by the parents or guardians or by the county from which they came.⁴⁰⁵

An attempt was made in the legislature in 1868 to secure a further modification of this law, limiting the support of the State to those who were incapac-

tated from self-support by incurable diseases of the eye; but a bill to this effect failed to pass.⁴⁰⁶ The Thirteenth General Assembly in 1870, however, provided for an industrial home for blind adult persons who were unable to support themselves, in connection with the institution. It was governed by the same trustees and was open to such blind persons as were dependent on their own labor for support. In 1872 the name was changed to Iowa College for the Blind.

This movement for an institution where the adult blind could support themselves received great impetus twenty years later when Governor Larrabee, in his second biennial message on February 13, 1890, made reference to the report of a commission which he had appointed under an act of the Twenty-second General Assembly to examine various institutions in other States in which the blind were employed in useful arts. That report was transmitted by the Governor with his message. He said that it was estimated that there were from fifteen hundred to eighteen hundred blind people in the State at that time, many of whom were idle at home or in the poorhouses and dependent upon charity. He urged the building of an institution for the adult blind;⁴⁰⁷ and the General Assembly, in an act approved on April 23, 1890, gave effect to this recommendation by providing for the establishment of an Industrial Home for the Adult Blind at Knoxville. Nothing was said in the act as to the terms upon which such

persons might be received. It was stated, however, that the object was to provide a home and means for the blind to earn and provide their own living. This Home continued in operation until the Twenty-eighth General Assembly in 1900 directed the Board of Control to close the institution, sell the building and the property within it, send the inmates to their homes, and lease the farm.⁴⁰⁸ Four years later the institution at Knoxville was turned into the Hospital for Inebriates.

From 1849 the court in each county was required to certify to the State Superintendent of Public Instruction the names of all deaf, dumb, and blind persons in each county from ten to thirty years of age. In the *Code of 1897* the county superintendent was required to report to the superintendent of the institution for the blind the name and post-office address of all residents in his county who were so blind that they could not gain an education in the common schools.⁴⁰⁹ This Code put the care of the blind back upon the original basis of State support for the purposes of an education including all the blind, and not merely those who were indigent.

The Thirty-fourth General Assembly by an act approved on April 6, 1911, removed the College for the Blind from oversight by the Board of Control and placed it under the State Board of Education.⁴¹⁰ Thus, again, the State of Iowa has throughout its history pursued a strictly constructive policy with respect to this class of indigents.

INEBRIATES

One can hardly say, however, that the State has pursued a consistent policy in caring for indigent inebriates. From a very early date in the States and Territories from which the early laws of Iowa were borrowed there were provisions for the appointment of guardians to care for the estates of drunkards, and provisions were made for their care by the poor relief authorities.⁴¹¹ These provisions for the appointment of a guardian for a habitual drunkard, incapable of managing his own affairs, were repeated in the *Code of 1873*, and, although to a considerable extent a dead letter, stand in the law at the present time.⁴¹²

As long ago as 1876 it was recognized that the desultory care of inebriates was not meeting the situation. Governor Carpenter suggested in 1876 that the discontinued Soldiers' Orphans' Home at Glenwood might be used as an inebriate asylum — the purpose which he had in mind being the reformation of drunkards. The usefulness which this class of institutions had had in other States was the reason for his advocating the same policy for the State of Iowa.⁴¹³ As a matter of fact, however, the movement for such an institution lay dormant until the Twenty-ninth General Assembly, in an act approved on April 12, 1902, stipulated that the Board of Control should provide for the diagnosis and treatment of dipsomaniacs, inebriates, and persons addicted to the excessive use of morphine and other narcotics, in one or more of the State Hospitals for the Insane.

This act also provided that the expenses connected with such cases should be borne and paid in the same manner as in the case of the insane, that is, by the estate of the person concerned, by his relatives chargeable under the poor laws, or by the county.

In accordance with this act departments for inebriates were opened on July 21, 1902, at the institution at Mt. Pleasant; on October 10, 1902, at Cherokee; and on January 8, 1903, at Independence. Because of the large number of persons needing treatment, the Board in its report in 1903 recommended the establishment of a separate institution for such cases.⁴¹⁴ In response to this suggestion the Thirtieth General Assembly, by an act approved on April 6, 1904, established the State Hospital for Inebriates at Knoxville. For four years this property had lain idle, since its discontinuance as a home for the adult blind.⁴¹⁵ This same act provided that the expenses of the arrangements, trial, and transportation occasioned by the transference of inebriates to this hospital at Knoxville were to be paid by the county and recovered by it if possible from the persons or others chargeable with the support of such persons as in the case of the insane.⁴¹⁶ The next General Assembly slightly changed the method of collecting the amounts due for certain inmates at Knoxville, but no alteration was effected in principle.⁴¹⁷

The last General Assembly took two steps in the development of the plan for the care of inebriates. A custodial department was provided in the hospital for inebriates by an act approved on April 17, 1913,

for the care of habitual inebriates or those who were a menace to the discipline of the institution: they were to be employed on the same terms as those who were not in this department. The other step was a provision for the payment by the State for the labor of the inmates, all of whom were to be employed on the farm, gardens, and grounds of the institution and were to be allowed seventy cents per day for their labor. Fifty cents of this amount was to be retained by the State for their maintenance; and the other twenty cents a day was to be paid monthly to those dependent upon the men, if there were any such, otherwise to be paid to the inmates upon their legal release.⁴¹⁸

This institution — half hospital and half institution of correction in its nature — so far as the problem of dependent inebriates is concerned, has been conducted upon a very high plane. So far as the law governing it is concerned, it is subject to the same criticism which applies to the care of the insane. Counties are very slow to send to the institution people who need the treatment because of the expense. A removal of the provision charging the cost to the counties would doubtless have the effect of causing more of these victims of drink to be sent to the institution.

The other laws relating to this institution have not been discussed because they do not come within the purview of this subject. The institution has been mentioned only in so far as it has to do with those

who can not support themselves while taking the treatment.

EPILEPTICS

For a number of years before any definite measure was adopted for the special care of epileptics by the State, they had been cared for either in the county poorhouses or in the State Insane Asylum, or in the home for the feeble-minded. Often had the trustees of these institutions urged the necessity of providing a special institution for the care of epileptics. In 1896 Governor Jackson, in his biennial message, urged that the State in the near future should locate at some central point a colony for epileptics.⁴¹⁹ He made this recommendation on the ground that to do so would relieve the insane hospitals of many patients. Superintendent Powell, in a paper read before the Board of Control on December 13, 1898, had reported that after a careful examination he was led to the belief that there were over thirty-three hundred epileptics in the State of Iowa. Of these, two hundred were in the institution for the feeble-minded, about fifty in each of the State hospitals for the insane, and one hundred and forty-three in county poorhouses and asylums. The rest of them were not cared for in any State or county institution. The presence of those in the hospitals, he argued, was a source of constant danger to the other patients. He therefore urged that a colony be established for the special care of this class of defectives. The epileptic's need of special treatment,

the necessity of his employment out of doors, and the constant attention which he required, as well as the success of epileptic colonies or villages which had been established previously in Ohio, New York, Pennsylvania, Massachusetts, and New Jersey, were considerations upon which he urged the establishment of such an institution.⁴²⁰

The Board of Control, moreover, from its very beginning pressed upon the legislature the necessity of the establishment of a colony for epileptics. In its third report it called attention to the fact that there were four hundred and two epileptics in various State and county institutions at the close of the previous biennium. Of these one hundred and ninety-two were in the institution for the feeble-minded, two hundred and three in State hospitals for the insane, and seventy-nine in county poorhouses.⁴²¹ The Board of Control, furthermore, consistently urged this matter upon the attention of the legislature in its later reports; and Governor Carroll, in his second biennial message in January, 1911, added his support to the recommendations of the Board.⁴²²

After more than thirteen years of agitation by these executive officers the legislature responded with an act approved on April 10, 1911, providing for the unsexing of epileptics along with other defective classes in the State institutions, whenever, in the judgment of the authorities of those institutions it was considered advisable.⁴²³ And finally, there was passed an act approved on April 18, 1913, providing for the establishment of a State Colony for

Epileptics. In this act nothing is said about the support of persons to be admitted. It provides, however, for the admission of all persons affected with epilepsy who have been residents of the State one year. The probabilities are that the same measures for the support of those who are unable to support themselves or who have relatives unable to support them in this institution as apply in the case of indigent insane or feeble-minded will be operative when the institution is ready to receive patients.⁴²⁴

One could wish that in establishing a new institution the legislature might try out the system of State support in order to see how it would work as compared with the antiquated system of county support, dominated as it is bound to be by purely economic motives rather than by the motives of large social vision which sees only the welfare of the population of the State.

XIII

SPECIAL CLASSES OF DEPENDENTS: SOLDIERS, SAILORS, AND MARINES

In the chapter dealing with dependent children the measures taken by the State for the care of the orphans of soldiers, sailors, and marines have already been discussed. Concurrently with legislation relative to the children of these classes, the legislature provided for the care of soldiers and their families. In connection with the discussion of the poorhouse it has been seen that counties were forbidden to care for the widows and families of Iowa soldiers at these county institutions when they preferred to be relieved outside of the poorhouse at two dollars per week for each person, exclusive of medical attendance.⁴²⁵

Laws enacted by the Twenty-second and Twenty-fourth General Assemblies provided for the levy of a tax in each county, the first of three-tenths and the latter of one-half a mill on the dollar, to create a soldiers' relief fund. The purpose of this fund was to pay for the relief of the families of soldiers and the funeral expenses of honorably discharged Union soldiers, sailors, and marines, and for the care of their indigent wives and minor children if the latter were boys below fourteen years of age or girls below

sixteen years of age, and if they had a legal residence in the county. A special soldiers' relief commission was to be appointed in each county to administer this fund. The law was amended at various times: first, by the Thirtieth General Assembly, which changed the act so that it was no longer limited to the soldiers of the Civil War, but included those of any war; and second by the Thirty-third General Assembly, raising the amount which could be allowed for funeral expenses from thirty-five to fifty dollars, and raising the rate of taxation permitted from one-half mill on the dollar to one mill.⁴²⁶

The Thirty-fourth General Assembly in an act approved on March 11, 1911, extended the funeral expense benefit to the deceased wife or widow of such an indigent soldier, sailor, or marine who had not an estate sufficient to pay funeral expenses.

The early provisions for the care of indigent soldiers and sailors in their homes were not satisfactory. Governor Sherman in his second biennial message on January 14, 1886, approved the suggestion for the establishment of a soldiers' home.⁴²⁷ This was simply the culmination of an agitation, partly political and partly humanitarian in its motives, that had gone on for some time with respect to special provision for the old soldiers. The legislature responded by enacting a law approved on March 31, 1886, establishing the Iowa Soldiers' Home at Marshalltown. The purpose stated in the act was to provide a home and subsistence for all honorably discharged soldiers, sailors, and marines who had

served in the army or navy of the United States and who were disabled by disease, wounds, or otherwise. They must have been residents of the State three years unless they had served in an Iowa regiment or were accredited to the State of Iowa. A board of six commissioners appointed by the Governor with the advice and consent of the Senate was constituted the governing body of this institution.⁴²⁸

An act was approved on April 9, 1892, providing for the erection of ten cottages at the Soldiers' Home for the use of soldiers, sailors, and marines and their dependent wives who desired to be with their husbands at the Home. The wife first had to secure the approval of the Grand Army post nearest her place of residence in order to be supported and maintained and to receive the same allowance from the State as the other inmates. This same act provided also for suitable rooms at the Home for the widows of deceased soldiers, sailors, and marines who at the time of the decease of their husbands were entitled to become inmates. They also were required to secure the approval of the local Grand Army post as in the case of the wives of soldiers just mentioned.⁴²⁹

A restriction upon the use of pension money was made by the legislature in an act approved on March 29, 1900. In case a soldier in the Home who had been twice convicted of a crime or misdemeanor had a wife, child, or parent dependent upon him for support, one-half of his pension money was to be sent to such person and the other half was to be kept and paid out for the dependent pensioner subject to the

approval of the Board of Control and the Commandant of the Home for things necessary for his keep and welfare. In all cases those who had wives or minor children dependent upon them were required to deposit with the Commandant one-half of their pension money to be sent to such dependents, unless it could be proved that such wife was a woman of immoral character.⁴³⁰

The law admitting soldiers to this Home was interpreted liberally by the Board of Control after the Home came under its control in 1898, and was made to include those who had served not only in the Civil War but in the regular army in times of peace and those who had served in the recent war with Spain.⁴³¹ After 1907 admission to the Soldiers' Home was made only after a certificate had been signed by the board of supervisors of the county in which the person resided, showing that such person was a resident of that county. This requirement was made in order that in case such a person should leave the Home or be expelled for any cause, the county from which he came could be made chargeable with his care.⁴³²

A further step was taken by the Thirty-third General Assembly when, in an act approved on March 12, 1909, it provided for the admission to the Soldiers' Home of the fathers of soldiers, sailors, or marines who were dependent upon the latter for support.⁴³³ This same General Assembly made provision also for the admission into the Home of those who were only partially able to pay for their support, provided those who were entirely dependent

had first been admitted. Those who received a pension under twenty dollars a month were not required to pay for their maintenance in the Home. If they received more than that amount they paid the amount over twenty dollars a month up to the total amount necessary to pay for their support in the institution unless someone was dependent upon them. In that case the excess over twenty dollars per month went to the dependents.⁴³⁴

Partly because of objections raised to using funds received by the soldiers from the National government to pay for his keep in a State Home and partly because of a sentimental feeling against making the soldier pay for his keep out of his pension money, the last General Assembly changed this rule in part by providing that no pension money received from the United States shall be taken from the old soldier for his support in the Iowa Soldiers' Home.⁴³⁵ This General Assembly further amended the act for the support of dependent soldiers, sailors, and marines, and certain of their natural dependents. A woman who before 1890 had married a soldier and who had lost her husband by death or by divorce, if the fault was not her own, even though married again and even though her present husband is not an inmate, is entitled to support in the Soldiers' Home. Army nurses and mothers of honorably discharged soldiers, sailors, and marines were added to the list of those already entitled to admission. Furthermore, husbands and wives may be allowed by the Board

of Control to occupy cottages or other quarters together.⁴³⁶

Thus the provision which was first made for the support of indigent soldiers was gradually extended to include sailors and marines, and then the members of the families of these persons—at first the widows, then the fathers, and finally the mothers, innocent divorced wives — and army nurses. Furthermore, by the interpretation of the Board of Control not only the soldiers, sailors, and marines of the Civil War, but members of the regular army in time of peace and soldiers of the Spanish-American War were admitted.

Without doubt in many cases the establishment of the Soldiers' Home performed a most worthy service in caring for the old soldier and his dependents. On the other hand it is also true that the Home was the method by which some old soldiers have been pauperized. The stimulus of the necessity of personal endeavor to make a living has in some cases been weakened. Relatives who should have had the burden of the old soldier's support placed upon their shoulders have easily shifted that burden to the State, and the old soldier has been bundled off to the Soldiers' Home to live and die without the love and care of those who naturally should be expected to give him a home. In those cases in which the old veteran was a hard drinker doubtless the Home provided a great relief to the relatives, yet it is difficult to see how this shifting of the responsibility in most

cases was beneficial either to the relatives, to the soldier, or to the State.

Furthermore, it is open to grave question whether the act of the last General Assembly which forbade the taking of as much of the soldier's pension as is necessary to pay for his keep in the Home is an evidence of the highest social wisdom. Perhaps it will do no harm to those veterans who know how to spend their money wisely; but to those who will squander it for drink or for even more questionable purposes the law will be a doubtful kindness. The old soldier should be cared for. That care, however, should be given by his children or his other close relatives whenever possible, and when that is impossible, then the State should not remove the last means of retaining self-respect by forbidding him to pay for his keep in the State institution out of his only source of income, his pension. Even though he be an old soldier he should be helped by the State to retain his economic independence by self-support wherever possible.

XIV

SPECIAL CLASSES OF DEPENDENTS: THE SICK

It has been already shown that early in the development of outdoor relief as well as of relief in the poorhouse, provision was made for medical attendance for the poor at the expense of the county. This system has continued to the present day, but as a general rule it has been notoriously inadequate. The county doctor has usually been some man who needed the practice so badly that he would under-bid every other physician in the county for the work. Taking it at a very low figure, he doubtless felt justified in not doing any more than was absolutely necessary. The result has been in most cases that the county doctor's visits to the poorhouse are not made oftener than once a week and in some cases even less often.⁴³⁷

Partly because of the inadequacy of county medical relief the Thirty-third General Assembly provided for the optional establishment of hospitals by counties, to be at the service both of public patients and of those who were able to pay for treatment. The same act provided for the care of indigent tuberculosis patients at county expense.⁴³⁸ Up to the

present time but two counties have established institutions of this character.

Before the establishment of these county hospitals the legislature, in an act approved on April 9, 1906, provided for the establishment of the State Tuberculosis Sanatorium at Oakdale for the care of incipient cases only. Indigent patients, however, were admitted, and the expenses of their transportation and care in the hospital were to be paid out of the State treasury on certification of the board of health of the city or incorporated town where the patient resided, or of a majority of the trustees of the township — this provision extending only to indigent residents of the State. The same act gave the superintendent the authority to stimulate the organization of hospitals or dispensaries in the various counties, and large centers of the State for advanced cases.⁴³⁹

The last General Assembly, by an act approved on April 12, 1913, went one step further. The county supervisors may now provide for the segregation and maintenance of persons in the advanced stages of tuberculosis who are unable to provide for themselves and who have no relatives liable for their support. The amount to be spent in counties for buildings to care for such cases is limited according to the population, unless a greater amount is approved by a vote of the qualified electors.⁴⁴⁰

Furthermore, the legislature in 1913 provided for a department at the State Sanatorium for the treatment of advanced cases, and especially for the patients from those counties which had not erected

county sanitoriums for such cases. In these instances the counties from which they came were to be liable in case the amount could not be collected from the patients — a provision in all respects similar to the county liability for insane people and for incipient cases in the sanatorium. Until 1913, as has been seen, incipient tuberculosis patients had been supported at State expense if they were unable to pay for their own maintenance. The same act which provided for the department for advanced cases and for county support of these advanced cases, placed the financial responsibility for the support of dependent incipient cases on relatives or on the county from which they came.⁴⁴¹

Thus a beginning has been made in Iowa in the institutional care of the sick, while special institutions have been established in the State and have been made possible in the counties for the care of those affected with tuberculosis. Unfortunately the last General Assembly abandoned the plan of State support for that of county support of dependent tubercular patients. Doubtless the same results from this new plan will be seen as in the care of dependent children and of the insane. For reasons of economy the counties will probably prefer to keep their patients in a county institution with inferior care rather than to send them to a State institution where expert knowledge and methods can be applied to their treatment. Except in counties having large cities the same stories of neglect may be expected from a system possessing merely the form of institu-

tional care of the advanced tuberculosis patients without the substance thereof. The doctors employed will be on a par with the physicians who look after the county poor — probably they will be the same persons — since such a plan will be cheaper. The nurses who will be employed without doubt can in most cases be called such only by an accommodation of language. Those responsible for such short-sighted, inhuman, but economical procedure, will probably lay the comforting unction to their souls that these advanced cases are hopeless and will die in any case. Such reasoning will have the advantage of not being novel in the history of the care of the poor in Iowa. Perhaps one may be permitted to hope that the next legislature will repeal the provision relative to county care and support, except in counties having a population of perhaps fifty thousand, and concentrate the State's money and attention on the department for advanced cases established by the last General Assembly at the State Sanitorium. If some such plan is not followed, good people throughout the State may well petition the General Assembly to enact a law requiring the county supervisors to put to a painless and quick death in a lethal chamber the advanced and hopeless cases of tuberculosis. It would certainly be more merciful than county care would be in the less populous counties — and it would be cheaper.

XV

SPECIAL CLASSES OF DEPENDENTS: VAGRANTS

Vagrancy is a subject which is merely related to that of dependency: the vagrant is a semi-criminal, semi-pauper person. In order to make the treatment complete, however, a brief discussion of the legislation relative to vagrancy has been included.

From the earliest days of the Territory vagrants have received attention in the laws of Iowa. In the House of Representatives in 1838 a bill was introduced concerning vagrants,⁴⁴² and it was probably this bill which became a law on January 24, 1839. In this act a vagrant was defined as any person who gained his livelihood by gaming, any able-bodied person who was found loitering and wandering about and not having the wherewithal to support himself by some visible property and who did not labor, any person who might become chargeable to the county, and any other idle, vagrant, dissolute person, wandering about without any visible means of subsistence. A penalty of commitment to the county jail until the next district court was provided. If it appeared to the court that such a person was a vagrant and if he happened to be a minor, he was to be bound out until he was twenty-one years of age or he might

be hired out by the court for a time. In case he had a wife and family who lived in the Territory he could be let out on bond to return to them and follow some useful employment for their maintenance and support. The money earned by a vagrant during the period of retention was to be given him when released, or to his wife and children if there were such. All justices of the peace, sheriffs, constables, and grand jurors were charged with the enforcement of this law.⁴⁴³

This act continued in force in Iowa until the enactment of the *Code of 1851*. Besides the persons named in the act just noted, in that Code all fortune-tellers or persons who claimed to be able to tell where lost or stolen goods might be found, common prostitutes and keepers of bawdy houses or houses for the resort of prostitutes, all habitual drunkards or other disorderly persons, all public beggars or those who forced children to beg, all persons going about as collectors of alms for charitable institutions under any false pretenses, and all public fakers dealing in games of chance or pretended games of chance were defined as vagrants.⁴⁴⁴ These provisions were continued in the *Revision of 1860* and also in the *Code of 1873*.⁴⁴⁵

The Sixteenth General Assembly imposed a fine or jail sentence on vagrancy, and in this act the definition of vagrants was limited to male persons begging or "in a state of vagrancy". The board of supervisors was to provide for the working of prisoners of this character upon the county farm.⁴⁴⁶ The

Twenty-third General Assembly applied the term "tramp" to this same class of persons and provided a penalty. A tramp was defined as any male person sixteen years of age or over, physically able to perform manual labor, who was wandering about practicing common begging, or who had no visible calling or business by which to maintain himself and was unable to show reasonable efforts in good faith to secure employment.⁴⁴⁷

In these laws, except in the act of the Sixteenth General Assembly, there is no provision for putting the tramp or vagrant in the poorhouse. In actual practice, however, many of them found their way, especially in the winter seasons, to the poorhouses, usually those of populous counties. From this time on, to an even greater degree than before, vagrancy came to be looked upon as a crime rather than as a phase of dependency. The fact remains, however, that in the more populous counties winter finds many vagrants gravitating to the poorhouses. So long as there is no work test provided in these institutions, except such work as naturally has to be done around such an institution in the winter, and so long as discharge from the poorhouse is not strictly regulated, some exploitation of the institution by this class of paupers will continue. It is for such as these that the State needs a misdemeanants' farm colony. Cleveland, Ohio, has such a place in its "Cooley Farms", as they are called. New York State provided for such a farm colony in 1911. The nations of Europe — among them, Germany,

Switzerland, Holland, and Belgium — have had such institutions for some time, and they find that such places fill a long-felt want. No county poor farm or county jail can touch the problem. A farm colony for this class would not only save the counties and municipalities of Iowa thousands of dollars by deterring vagrants from coming within its borders, but would provide a place where constructive work in the rehabilitation of manhood and independence might be accomplished. To-day nothing constructive is accomplished by the current “passing-on” method of treating vagrants.

XVI

SPECIAL RELIEF FOR THE VICTIMS OF CALAMITY

In the history of poor relief the unusual calamity has always offered the occasion for putting into practice the best methods of relief. The unusual has always attracted the attention and careful study of men. On the other hand, those poor whom we have always with us become commonplace and do not attract the careful thought of the majority of people. So universally prosperous has Iowa been throughout its history and so fortunate with respect to calamities that there have been but few occasions for the exercise of special relief measures.

The first illustration of this phase of relief in the history of Iowa is to be seen in the care given to those made dependent by the Civil War, a subject which has already been discussed. The next calamity which focused the attention and sympathies of the people of Iowa upon the problem of the relief of their own stricken fellow-citizens was the visitation of the grasshoppers in northwestern Iowa in the early seventies. A special committee of the Fifteenth General Assembly appointed to investigate conditions in northwestern Iowa in its report to the legislature stated that the people in the counties of Sioux,

Osceola, Lyon, and O'Brien were the worst sufferers from these pests. The report pictures the destitution of the people and the impossibility of doing anything more than they had done to help themselves. The report shows a fine spirit of pioneer independence on the part of the people. Their homes were already heavily mortgaged, and every one of these counties had placed itself very heavily in debt in order to help its farmers. They were unable to do more. All the people now asked, however, was a temporary loan from the State with which to buy grain to sow their fields. The committee recommended a loan of \$100,000 for seed, \$15,000 for feed for horses and stock, and \$5,000 for expenses in connection with the purchase and distribution of this grain.⁴⁴⁸

The General Assembly responded to this recommendation with an appropriation of \$50,000, or as much of it as might be necessary, to be distributed by three commissioners appointed by the Governor with the advice and consent of the Senate. This money was to be applied in the purchase of such seed, grain, and vegetables as might be deemed necessary. The commissioners were to file with the State Auditor an affidavit to faithfully and impartially perform their duties, and a bond in the sum of \$40,000 with good and sufficient sureties to be approved by the district court in the county where each commissioner resided. They were given power to make such rules and regulations and to appoint such assistants as they deemed necessary, and to admin-

ister oaths and examine persons concerning any fact which they thought necessary to the proper discharge of their duties. They were required to make bills in triplicate for all articles purchased, and to file one copy with the Auditor of State and one with the auditor of the county in which the distribution was made. For this work they were to be paid three dollars a day and actual expenses, and a full report was to be made to the Governor on or before June 1, 1874.⁴⁴⁹

The details in this instance have been presented thus minutely in order to point out clearly the method of procedure which was followed. An example of different method of relief is to be found in the proclamation of Governor Boies on July 7, 1893, asking the citizens of Iowa to contribute money for the sufferers from the tornado at Pomeroy. In this case the money was not expended under State auspices, but by the Pomeroy Relief Committee, a local organization.⁴⁵⁰

These two instances will be sufficient to show the methods by which special exigencies for relief have been met by public authorities in the State of Iowa. There have been other visitations of pest and storm, but for the most part private individuals through non-public agencies, or the counties concerned have been able to handle the situation without State aid. The experience of Iowa, therefore, is not especially illuminating on the subject of the relief of poverty due to special calamity.

XVII

STATE CONTROL OF POOR RELIEF

Iowa inherited from other jurisdictions the system of local relief of the poor, and during the first fifty years that system was dominant. As a matter of fact, State control of the relief of the poor in any adequate sense of the term has not yet arrived in Iowa.

Until the early seventies there were, in the reports of the legislative or administrative officers of the State, scarcely any suggestions of the necessity of State control. A first step in the direction of such control was the appointment of a Visiting Committee for the Insane Hospitals. This committee was provided for by an act approved on April 23, 1872,⁴⁵¹ and was limited in its power strictly to the State Insane Asylums. Even this beginning had elicited lively discussion in the legislature, Governor Carpenter asserted, and when finally enacted into law it was with some reluctance, he confessed, that he gave it his approval. After two years of operation, however, he admitted that the work of the committee had vindicated the wisdom of the law.⁴⁵²

The first bill introduced into the legislature for a more comprehensive State supervision was one presented by Mr. George M. Wilson on February 17,

1874, providing for the creation of a Board of Charities and prescribing its duties. The bill was referred to a special committee which reported it back with certain amendments. Section 14 of this bill provided that the creation of the board should preclude the necessity of the appointment of visiting committees to the institutions other than such as might be created and clothed with special power by the General Assembly. The bill, however, was indefinitely postponed.⁴⁵³

The Visiting Committee to the Insane Hospitals in its report to the Governor on November 30, 1875, suggested that its powers be extended so as to give to all the State institutions the right of State supervision which the insane hospitals had. As an alternative to this suggestion, the Visiting Committee proposed a similar committee for each class of institutions, or, as another alternative, the creation of a board of charities which should include within its powers the visitation not only of the State charitable institutions, but also of the jails and poorhouses and the collection of information for the legislature concerning "the extent and nature of the various departments of the state and county aid and charities."⁴⁵⁴

The suggestion of the committee as to the enlargement of its powers so as to form a kind of board of charities was heartily seconded by Governor Carpenter in his second biennial message in 1876.⁴⁵⁵ Two years later Governor Gear in his first inaugural address suggested the establishment of a board of

charities whose duties should be to see to the construction and repairing of all the State buildings devoted to charitable purposes, examine into their condition from time to time, report on these matters to each General Assembly, and make recommendations relative to the needs and management of the institutions. In favor of this plan, he argued that it would do away with the necessity for the appointment of visiting committees at each session and that the States which had adopted such a plan had found it to work beneficially and in the interests of economy.⁴⁵⁶ By 1880 Governor Gear had turned from the idea of a board of charities to a board of control. This change on the Governor's part was made on the ground that the board of control would be more economical than a board of charities such as was common in other States. This suggestion was in line with the Governor's well-known emphasis upon the necessity of economy in the support and control of the charitable institutions.⁴⁵⁷

Two years later, in his second biennial message (1882) on the strength of a report by Dr. Margaret A. Cleaves of Davenport, whom he had appointed as a delegate to the National Conference of Charities and Correction, Governor Gear returned to the idea of a State board of charities. He added, however, that the powers of such a board should include the supervision of poorhouses and jails, as well as the oversight of the charitable and penal institutions of the State.⁴⁵⁸ This is the first official suggestion that a State board should include within its powers the

supervision of the State penal institutions. Nothing, however, came of these various suggestions. The Visiting Committee to the Insane Hospitals was continued; and each of the State institutions continued to have its own board of trustees, while the county jails and poorhouses were left unsupervised by State officials.

For ten years there is no reference in the official documents of the State to the subject of State control, or until, in his first biennial message of January 12, 1892, Governor Boies again recurred to the idea. The Governor urged the creation of a State board of some kind either to control the State institutions or to oversee them, basing his arguments on the undue amount of expense entailed by the maintenance of a separate board for each institution and the Visiting Committee to the Insane Hospitals.⁴⁵⁹ Two years later Governor Boies again mentioned the matter, but placed the emphasis upon a board of control which he thought should occasionally visit the county institutions.⁴⁶⁰

Governor Jackson, in January, 1896, once more brought this matter to the attention of the legislature but urged that the powers of the Visiting Committee be enlarged to include visitation of the Institution for Feeble-minded Children and all private institutions in which insane were kept, all poorhouses and county asylums for the insane, and all jails.⁴⁶¹ In this same message he argued against the plan of establishing a board of control, urging chiefly that the institutions had been managed so long without

scandal and by people who had made a special study of each institution and who gave their sole attention to the subject and therefore were more expert in the management of that institution than any board could possibly be in the management of all the institutions of the State.⁴⁶² Here the voice of reaction first found its official expression; but Governor Jackson was not alone in that opinion. His successor in the Governor's chair held the same views: Governor Drake in his message in 1898 recommended that the powers of the Visiting Committee to the Insane Hospitals be so enlarged as to control every hospital and asylum for the insane and all poorhouses. Moreover, he argued in favor of the existing plurality of boards in the management of the State institutions with the modification that each kind of institution, like the various insane hospitals, might well be under the control of a single board.⁴⁶³ But the informational dynamite to blow this bit of reactionary mediævalism to fragments was even then in the hands of a legislative committee.

At the special session of the Twenty-sixth General Assembly there had been appointed a joint committee to examine the various State institutions and make a report. This committee found very irregular conditions prevailing in some of the institutions, showing wastefulness, if not something more serious in some cases. The report to the Senate showed very clearly that the statements of Governor Jackson and Governor Drake had no foundation in fact. Indeed, the report showed that the system in existence at

that time was anything but economical, that in many cases position on the board of trustees of a State institution was largely honorary, and that service upon these boards had not resulted in giving the members of the boards more knowledge about that particular institution with which they happened to be connected than was possessed by the average citizen. The outcome of the committee's findings was the recommendation that the system then in vogue give way to a board of control in charge of all the State institutions.⁴⁴ This report, known as the Healy Report, was the most searching investigation ever made of the State charitable and penal institutions in the history of Iowa. All that was needed to show up the faults of the old system was a careful test of efficiency. Yet the methods condemned by this committee, at least in part, had been in common use for years.

So important is this report that a summary of its findings will not be out of place at this point. The committee, after viewing the whole situation, decided not to suggest specific changes in the laws governing the institutions, for the reason that the greater number of the amendments which they would be obliged to propose could only properly form a part of a measure creating a central or supervisory board. In their judgment the difficulties were inherent in the system as it then existed. They found no uniform method in the purchasing of supplies; they found different funds intermingled in violation of the law; at many of the institutions there was no

auditing of the bills and at others the auditing occurred only after the bills had been paid; different salaries were paid for the same kind of work; appropriations were asked of and secured from the legislature on *ex parte* statements; and in many cases the appropriations were expended in such a manner that it was impossible to tell whether they had been used in a manner agreeable to the legislative intent. There was, furthermore, very little continuity of purpose to be found in the appropriations for many of the institutions; while there was a lack of the proper mutuality of interest between the different institutions, with a consequent reciprocal distrust and a disposition in many cases to regard the legislature as a hostile body.

In this report, moreover, the committee proposed that the statute should be so amended that the support fund should not be drawn until it was required by the institution; that the State Treasurer should be authorized to dispose of all warrants issued to the institutions for the payment of which the State had no ready funds; and that the per capita support be reduced. The committee believed that a more economical management so as to reduce the per capita allowance for support purposes for the institutions would largely do away with county care of the insane. Their argument was that if the people and the members of boards of supervisors were once convinced that the per capita allowance for insane was not greater than was actually required in the county

institutions, then such county institutions would not be built.

Again, the committee believed that the Visiting Committee to the Insane Hospitals spent more time at the work than was actually necessary. This constituted another argument for a central supervising body. They further recommended the establishment of a uniform system of accounts — which could better be brought about under central supervision. Tax levies for State institutions, they recommended, should be discouraged, as also the precedent of one General Assembly making appropriations for an institution covering a period longer than two years.

After due regard for all the facts and conditions prevailing in the State institutions, the committee came to the conclusion that the system of having a separate board of trustees for each of the institutions or for each class of institutions in the State was both wasteful and inefficient. A change in the government of these institutions was not only advisable, but imperatively demanded. They were convinced that whatever success had attended the public institutions of the State had come in spite of the methods and practices then existing. That the method was not economical was shown by the fact that during the previous biennial period seventy percent of the total expenditures of the State was for these various State institutions — a sum which was entirely beyond their proper share of the income of the State. To show that the method then in vogue was ineffi-

cient, they cited the fact that the trustees of one institution were entire strangers to those having charge of another institution. They demonstrated, furthermore, that two-thirds of the members of the various boards of trustees had no such intimate knowledge of their institutions as was necessary to enable them to be of any value in their management. As a result the superintendents or their subordinates really conducted the institutions.

The committee stated that there was no other State in the Union which governed its public institutions by separate boards without a supervising authority lodged in some board of control or board of charities and correction. On inquiry they found that Wisconsin, Rhode Island, Kansas, Nebraska, and South Dakota, each governed their institutions by a board of control. Of the States which had once adopted the system of supervision by a board of control, but one had changed the system; while those which retained the boards claimed that they had proved very satisfactory. Those Commonwealths which did not have boards of control had supervising boards such as a board of charity, as in Illinois and New York.

The committee found, furthermore, that there was no disposition on the part of those closely connected with the institutions to institute or agitate a change, nor was there any disposition on the part of present or former members of the legislature to criticize the conduct of institutions in their communities, even though they knew that abuses existed. The commit-

tee therefore recommended that the State provide for a board of control which should be clothed with large administrative and executive powers, and not merely an advisory body. They recommended that the board be so chosen that partisan politics should not enter into the management or the selection of the officers of the various institutions. It was believed that the establishment of such a board would result in a very great decrease in the charges upon the State and a much greater efficiency in the management of the State's institutions.

Two of the members of this committee, Mr. Thomas D. Healy and Mr. Claude R. Porter, believed that the three great educational institutions might well be omitted from the list of institutions placed under the proposed board of control. Mr. Frank F. Merriam, on the other hand, could see no reason why the educational institutions should not be placed under the control of this board as well as the charitable and correctional institutions.

The recommendations of the committee were adopted in almost every respect. The legislature accepted Mr. Merriam's view of the situation and in drafting the law placed the educational, as well as the other institutions, partially under the Board of Control — a proceeding, however, which was rectified after a few years.

At this same session of the General Assembly a joint resolution was proposed in the Senate creating a commission to investigate the poorhouses and other places in which the insane were kept, and to report

on the question as to whether insane should be kept at county or at State expense and under State care.⁴⁶⁵ After the passage of the bill creating the Board of Control, however, a substitute resolution was offered placing this investigation in the hands of the Board.⁴⁶⁶

The act creating the Board of Control was approved on March 26, 1898. It provided that the Board composed of three members, appointed by the Governor with the consent of the Senate for a term of six years each, should take over the management and control of the Soldiers' Home, the charitable, reformatory, and penal institutions of the State, provide for supervision over the governing boards of the State educational institutions, recommend appropriations for the institutions under their care, and define certain offenses and provide penalties therefor. The members were each to receive a salary of three thousand dollars a year, and were removable by the Governor with the consent of the Senate for malfeasance or nonfeasance in office, or for any cause that rendered them ineligible to appointment or incapable or unfit to discharge the duties of the office.

The Board of Control was given full power to manage, control, and govern, subject only to the limitations of this act, the Soldiers' Home, the State Hospitals for the Insane, the College for the Blind, the School for the Deaf, the Institution for Feeble-minded Children, the Soldiers' Orphans' Home, the Industrial Home for the Blind (since abandoned), the

Industrial School in both departments, and the State penitentiaries. It was vested with all of the powers relative to these institutions hitherto exercised by the various boards of trustees which it superseded and by the Governor and the Executive Council. This was not intended, however, as a limitation upon the general supervisory or examining powers vested in the Governor by the laws or Constitution of the State, or upon any committee appointed by him. The Board was to make a biennial report to the Governor and legislature embodying its observations and conclusions respecting each and every institution named; and furthermore, was to recommend to the General Assembly at each session desirable changes in the legislation affecting the charitable and correctional institutions of the State.

Other significant powers of the Board were authority to investigate the question of the insanity of any person committed to any State hospital; to collect information concerning the experience of any of these institutions either in Iowa or in any other State and have it printed; and to encourage the scientific investigation and treatment of insanity and epilepsy in the Hospitals for the Insane and the Institution for Feeble-minded Children, and publish the results from time to time. In addition, they were to investigate the work of the boards of regents of the educational institutions of the State. This power, however, was of no importance in this connection; and furthermore, a separate board was later organized for these institutions.⁴⁶⁷

In the act creating the Board of Control there was no provision for its supervision of any county institutions. At once, however, the members of the Board saw that it was necessary for them to know what care the insane were receiving in the county and private institutions. They, therefore, proceeded to look into conditions in nineteen of the county poorhouses and insane asylums. What they found has been alluded to in the chapter dealing with the care of indigent defectives.⁴⁶⁸ The conditions there led the Board to recommend that it be given authority to supervise and control to a considerable extent the county and private institutions caring for the insane.⁴⁶⁹

The Twenty-eighth General Assembly, to which the Board made its first report, heeded its recommendations and gave it supervision over all county and private institutions in which insane were kept. The Board was authorized to send a visitor twice a year to each of these institutions, and to make rules and regulations for their government. It was empowered to remove to the State asylum at the expense of the county concerned any patient in the county asylum, if his case was acute and if they believed that he would receive better care in a State institution. The Board could also remove chronic cases from the State institutions to the county asylums, but only after obtaining the consent of the immediate relatives of the patient, if he had any, or the consent of the commissioners of insanity of the county concerned.⁴⁷⁰

Moreover, in addition to the duties laid down by the act creating the Board of Control, it was later given certain additional powers. The Twenty-ninth General Assembly, in an act approved on April 10, 1902, gave it control of all homes receiving children to be placed out or cared for.⁴⁷¹ This same General Assembly put the Hospital for the Inebriates under the control of the same Board.⁴⁷² The Thirtieth General Assembly gave the Board power to designate and approve the institutions and associations in the State having charge of juveniles under the Juvenile Court Act, and to visit, and to have oversight and supervision over such homes and associations.⁴⁷³ An act of the Thirty-first General Assembly granted the Board authority to appoint two State agents for the Soldiers' Orphans' Home and for the Industrial Schools, whose duty it should be to look after the placing out of children from these institutions.⁴⁷⁴ By another law of the same session the Board was charged with the care and disposition of the non-resident insane.⁴⁷⁵ Again, by a law of the Thirty-third General Assembly the Board was authorized to investigate any charges of abuse, neglect, or other misconduct made against the conduct of any officer concerned with the management of any county or private institution in which the insane were kept or against any association or society coming within the provisions of the sections of the *Code Supplement of 1907* concerning institutions which received and cared for children.⁴⁷⁶

The activity of the Board of Control in regulating

institutions which had hitherto been unregulated gave rise to considerable criticism. Governor Carroll, in his second biennial message in January, 1911, took cognizance of this criticism and recommended that a special committee in each house be appointed by the legislature to consider Board of Control matters. These criticisms related largely, however, to the Board's methods in purchasing supplies,⁴⁷⁷ and did not affect the Board injuriously in any way.

There had been a contention for some time that the School for the Deaf and the College for the Blind were in no sense of the term either charitable or correctional institutions and should therefore not be under the regulation of the Board of Control. After the educational institutions of the State were put under the control of the newly organized State Board of Education, the reason for keeping these two institutions under the supervision of the Board of Control ceased to exist. Accordingly, the Thirty-fourth General Assembly removed the College for the Blind from the jurisdiction of the Board of Control and placed it under the supervision of the Board of Education.⁴⁷⁸

Finally, the Thirty-fifth General Assembly made a number of changes in the law regulating the powers of the Board of Control. In an act approved on March 25, 1913, it was given the authority to transfer insane persons from State to county institutions in cases where they are public patients, with the consent of the county supervisors or the county commissioners of insanity; but if the persons to be removed

are supported by relatives or guardians, this transfer can not be made without the written consent of such relatives or guardians. It furthermore provided that no uncured patient could be discharged from the State Hospital for the Insane without the consent of the Board of Control. The act makes the powers of the county supervisors coördinate with those of the county commissioners of insanity in receiving to the county asylum the insane patients in the State hospitals whom the Board of Control wished to transfer to county institutions, and made it perfectly plain that no superintendent of a State Hospital for the Insane or a county board of insanity commissioners or any other board could discharge an uncured patient from a State institution without the consent of the Board of Control.⁴⁷⁹ Furthermore, the last General Assembly placed under the Board of Control the State Colony for Epileptics created at that legislative session.⁴⁸⁰ The Board was also given control over the admission of certain designated dependent persons into the Soldiers' Home and of persons from twenty-one to thirty-five years of age to the School for the Deaf to receive an education at the expense of the State.⁴⁸¹

One further step was taken by the Thirty-fifth General Assembly for the purpose of controlling the solicitation of funds for charitable purposes. An association which solicits public donations in the State is required to file with the Secretary of State a statement giving its name, its location, and the names of its principal officers and soliciting agents.

If the Secretary of State is satisfied that this statement is sufficient evidence that the money so collected is to be used for the purposes represented, he is to issue to the association without expense a State license authorizing it to solicit donations.

Thus gradually from insignificant beginnings State control of certain institutions dealing with the relief of poverty has developed, but the development is still incomplete. Its course has been uncertain and in no sense comprehensive. It began with the State institutions for the care of indigent defectives where the State was in control of these institutions from their very inception. It was furthered when provision was made for the State care of the soldier and his orphans and later his widow. It has been extended gradually to State supervision of county and private care of two classes of dependents, namely, the insane and children; and there it seems to have been arrested for the present.

Often during the history of Iowa it has been urged by Governors, visiting committees, and others in a position to know the situation with respect to the results of local methods of the poor relief that a board of charities should be appointed to supervise the poorhouses. To-day only those poorhouses which contain insane persons have inspection at the hands of the Board of Control, while as for outdoor relief, there is absolutely no attempt at State supervision.

The county insane asylums have been under the supervision of the State Board of Control for more

than a dozen years. This supervision and regulation has without controversy been of inestimable service in bringing up the standards of comfort and decency in these county institutions. And yet, they represent by no means what the State of Iowa should do for this unfortunate class of dependents. Patients in these institutions do not have the expert care which they deserve; they lack the comforts in many cases which a State institution could afford; they are not looked after except to provide the merest means of physical existence; and they are immured in an institution which, if not an integral part of the "county home" is yet in the same yard and essentially a part of the same plant and governed in most counties by about the same authorities.

The conditions in the county poorhouses are even worse. Filled with hopeless wrecks who are cared for through the stingy "bounty" of the counties, neglected and shunned by all who are not paid to look after them, and ministered to by a class of persons whose only qualifications too often are merely kind hearts and the ability to run the farm and the "home" as economically as possible,⁴⁸² certainly the county homes need State supervision. In spite of recommendations many times repeated by all sorts of officers, committees, and organizations who have studied the question, Iowa has not given the county poorhouses even such supervision as the Board of Control with its multitudinous duties could give. They are left uncontrolled, unless they have insane inmates, by any other authorities than those whose

chief interest is to make them cost as little as possible to the taxpayers of the county. This body of men, however sincere and kind-hearted they may be, are not usually acquainted with the best methods of caring for the poor. They are concerned with other and more pressing affairs of the county, such as roads, bridges, and concerns of more interest to the average voter than the care of paupers. They will not do their full duty by the poor in most cases simply because they do not know what it is, and because the other interests of the county have first consideration in their thoughts. There is needed a supervising body of State experts in these matters who have given the subject of the relief of the poor some study, seeking to learn the best methods employed elsewhere in the world and making practical application of these methods for the benefit of the poor of Iowa.

Badly as this oversight is needed in connection with the poorhouses, it is needed even worse in the outdoor relief of the poor. No one has claimed that the poorhouse as conducted in Iowa pauperizes the poor, except in the case of some of the larger ones near large cities where the vagrants congregate. The charge to which the poorhouse is open is rather that of neglect. In the case of outdoor methods of relief, not only are the poor neglected in some cases and treated without due consideration of what they really need, but they are pauperized in many instances. Either there is pauperization or else there is such neglect that private philanthropy must needs

come to the rescue and piece out what public relief fails to supply. Why this paradox? Simply because outdoor relief as administered in most of the larger cities of Iowa is simply the giving of food, money, or clothing, without consideration by the relief officers of the real needs of the family to whom aid is given. It is as true in the relief of the poor as in poetry, that "The gift without the giver is bare". Scientific poor relief shows that it is worse than that: the gift without the giver is positively demoralizing.

The overseers of the poor are very often old men who are given the position seemingly because they can not make a living in any other way; or perchance, as in some counties, they have so many applicants for relief that they can not give any time to the investigation of the applicants; and in practically all cases they are men who have had absolutely no training in the methods of investigation and the proper relief of the poor which have been devised by those who have long studied how to give to the poor without pauperizing them. In all too many cases they are so jealous of the prestige of their offices that they refuse to turn over the investigation of the cases to the associated charities of the city with its trained officers and investigators, people who have been trained in the use of the best methods of handling poor relief. The result is that many people who could be independent are receiving relief and coming to lose their capacity for independence and to look upon relief as a right which the community owes them; while the really deserving do not receive re-

lief, or if they do, they receive it in a way which further demoralizes instead of rehabilitates them.

What is needed is some plan whereby the conscience of the local board of supervisors will be quickened. One of the first requirements is that they shall come to know what is proper for the poor. If their care of the insane in the poorhouses has been improved by the supervision and regulation of the county asylum by the Board of Control, it is quite probable that to give this Board complete supervision over the poorhouses would work a similar change in the institutions. Then, if in addition to this, the Board were charged with the study and regulation of out-relief in the homes of needy families, it is quite within the possibilities that they might be able to secure the introduction of more effective methods into the cities of the State. Even overseers might be brought to see that relief of the poor means more than writing out orders for doles of groceries or coal and guessing at the necessities of applicants and ministering to them by absent treatment. Possibly some greater measure of coöperation between organized charity in the cities and the public relief officials might be worked out. That, however, would have to be supplemented by a program which would have for its end the securing of efficient public relief officials. After all is said, the problem is chiefly one of the relief official. Adequate machinery to guard against ignorance in poor relief will result in some gain, but no piece of machinery for the relief of the poor has ever yet been invented which is proof against ignorance or indifference.

PART IV

SUMMARY AND SUGGESTIONS



XVIII

SUMMARY OF THE PRESENT SYSTEM OF POOR RELIEF IN IOWA

The system of poor relief employed in Iowa is based upon the time-honored double system of indoor and outdoor relief. All but four counties in the State — Crawford, Emmet, Ida, and Osceola — maintain county homes or poorhouses, as they were formerly called.⁴⁸³ This institution in each county is under the control of the county board of supervisors. If it contains insane persons it is inspected about twice each year by a representative of the State Board of Control and is subject to certain regulations of this Board. If it contains no insane, there is absolutely no provision for its inspection and regulation by the State. The poorhouses of forty-nine of the ninety-nine counties in the State have no inmates who have been adjudged insane, and thus these forty-nine county institutions are not subject to any supervision aside from that which they receive from the board of supervisors.⁴⁸⁴

These institutions are in the immediate charge of a steward. In the ninety-five institutions for the year ending June 30, 1912, there was a total of 1,137 sane or normal inmates. In addition to these there were thirty-six who were held as insane, but had not

been so adjudged, eight hundred and forty-two insane, fifty-seven blind, twenty-one deaf or dumb, two hundred and eighty-two feeble-minded, and seventy-four epileptics, or a total of 1,313 defectives. Thus these institutions are refuges for defectives rather than homes for the aged and infirm and the poor. In these institutions, therefore, there is a grand total of 2,477 persons, twenty-eight of whom are children under fifteen years of age.⁴⁸⁵

The average salary of the steward of these poorhouses in 1911 and 1912 was \$724; while the average salary of the matrons was \$265.⁴⁸⁶

Supplementary to the county poorhouse as a method of relieving poverty, is relief given in the homes of the poor. The recipients of relief in their homes may be divided into three classes: first, soldiers, sailors, and marines and their families; second, widows and children who benefit from the mothers' pension law; and third, all others who, in the discretion of the board of supervisors, should not be sent to the poorhouse.

In the first class are all soldiers, sailors and marines and any member of their families who are not willing to go to the Soldiers' Home at Marshalltown, or who can not be admitted there for any reason whatever. In the second class are all children who are orphans as defined by the law and whose mothers, in the judgment of the court, are the proper persons to care for and rear them. These are the children who in an earlier period in the history of the State would have been bound out for support. Be-

fore the passage of the widows' pension law in 1913, as a matter of fact, the probabilities are that the mother would have received some relief from the overseer of the poor or the township trustees, and some from private relief agencies in the community, or else her children would have been sent to some orphans' home to be placed out if possible in normal family relationships.

In the third class belong all other dependents. It includes those in families who can not quite support themselves and who occasionally in winter or in case of sickness must have some aid to supplement their incomes for a short period. They may be old couples who have been left somewhat destitute and have no one upon whom they may rely for even a part of their support, or they may be widows with children who for the most part can make a living. This class includes also those who because of temporary sickness or accident to the bread-winner, are unable to support themselves. The law in such cases is intended to apply only to those who have family relationships, and a limit is placed upon the amount that may be supplied to each person.

The Iowa law contemplates that any dependents who have relatives shall be supported by those relatives who stand in the relation to the pauper of father, mother, or children, primarily; and by grandparents, if they are able to support the dependent without personal labor, or by the male grandchildren who are of ability either by personal labor or otherwise to contribute to the support of the pauper.

Dependent children, if illegitimate, are to be supported by the putative father, if he is known, or by the mother, or they may be bound out or adopted or sent to a home approved by the Board of Control. In case both the father and mother are unable or can not be forced to support the child, then he becomes a charge of the county. He may be kept in the county poorhouse or he may be sent to the State Soldiers' Orphans' Home and be kept partly at the expense of the State and partly at the expense of the county. If the child is legitimate he is to be supported by the relatives before mentioned, if they are able to do so. If not, he may be bound out or placed in some family for adoption or committed to some private association or home for orphan children approved by the Board of Control, or he may be sent to the Soldiers' Orphans' Home at Davenport. Since the passage of the mothers' pension law, if he has a mother living and she is considered a proper person to rear the child, he may be supported at the expense of the county in the home of his mother. In addition to these measures the State has a contributory dependency act very comprehensive in its nature, providing for the protection and support of a child by those upon whom he is naturally dependent or, in case they are unable, providing for his support and care in one of the ways mentioned above.

If the dependent person is feeble-minded and has not been pronounced so by the proper authorities, it is permissible under the Iowa law to send him to a poorhouse for support. If he is a person below the

age of forty-six years, he may be committed to the State Institution for Feeble-minded Children at Glenwood. If he is insane and has not been adjudged so by the county commissioners of insanity, he may be sent by the county supervisors to the poorhouse. Or if he has been adjudged insane and has been pronounced incurable, he may be committed back to the poorhouse of the county from which he came to the State hospital by the Board of Control, with the consent of the county supervisors or the county insanity commissioners. In case that county has a separate institution for the insane he will be cared for in that institution, under the supervision of the State Board of Control. If, however, there is no asylum for the insane in the county he will be kept in the poorhouse with the other inmates, perhaps in a separate ward.

If the dependent person is blind and is above the age permitting him to be admitted to the College for the Blind at Vinton, he has no other refuge in the State of Iowa but the poorhouse. If he chances to have family relationships he may be supported from the county funds as any other poor person in a family. A person who is deaf and dumb or is so deaf as to be unable to acquire an education in the common schools, and is between the ages of five and twenty-one or even if he is older than twenty-one, but is not yet thirty-five, and provided he can secure the consent of the Board of Control, may be sent to the School for the Deaf at Council Bluffs at the expense of the State. An indigent epileptic until the last session of the legislature had no legal refuge but the

poorhouse. When the State Colony for Epileptics, provided for at the session of the legislature in 1913, is opened, persons of this class may be cared for in that institution on terms to be determined by some future General Assembly.

Sick persons who are unable to provide their own physician may be treated by the county physician at county expense. Moreover, in those counties which have county hospitals, they may receive hospital treatment at the expense of the county.

In general it may be said that there is State supervision over the care of dependent children provided they are sent to the State Soldiers' Orphans' Home or to private orphans' homes or are placed out by any of these institutions just named, or if they are in poorhouses in which insane are kept. In all other cases whatever supervision is exercised over the manner of their care is at the hands of the boards of supervisors or their agents or the judge of the court. Dependent soldiers, sailors, and marines and their widows who are inmates of the State Soldiers' Home are under the supervising care of the State Board of Control. Soldiers relieved elsewhere have no such supervision. Furthermore, all outdoor relief is unsupervised by the State, as are also all poorhouses in which there are no insane. Outdoor relief is administered in cities of the first and second classes by an overseer of the poor. In other places it is furnished by the township trustees. Supervision of their work is supposed to be given by the county supervisors.

Thus it is apparent that in Iowa there are three sets of agencies concerned with the relief of the poor. Immediately connected with the relief are the overseers, the township trustees, or the stewards of the poor farms. Immediately above these officials there are the county supervisors, who are supposed to visit the poorhouse at least once a month and to oversee the relief given by the overseers of the poor and the township trustees. As a matter of fact, however, their practical function is to give general orders to the overseers of the poor and the township trustees without very often being called upon to give any specific direction as to how the relief shall be administered. In the case of certain classes of dependents certain functions are performed by the judge of the district court. All dependents in State charitable institutions and in county homes where insane are kept, and in private institutions keeping children or insane, are under the general supervision of the State Board of Control.

In many respects this may appear to be a complex system. As a matter of fact, however, complexity is not its chief difficulty. The citizens of Iowa experience very little difficulty in ascertaining what authority is charged with the care of a particular case. The chief obstacle in the way of successful public relief work is that centralized supervision has not gone far enough. Some counties spend very little on the relief of the poor in their homes; others spend a great deal. Even in the absence of careful figures showing comparatively what different counties

spend, from the figures at hand it is possible to say that the situation in Iowa is much as it was in Indiana before 1897. In that State it was found that the per capita amount spent on the relief of the poor in their homes varied from six cents in some counties to sixty-eight cents in others. The amount depended much upon the personnel of the officials concerned in its distribution.

XIX

SOME SUGGESTED CHANGES IN THE SYSTEM OF POOR RELIEF IN IOWA

The system of caring for dependent children in Iowa needs very little change. There can be no doubt that the Orphans' Home, as a receiving home for children until they are placed in normal family relationships among the people of the State, is an excellent institution. It is possible that more children could be placed out in homes were there more State agents at work under the Board of Control, securing homes for such children. Furthermore, the operation of the private homes for children under the supervision of the Board of Control has been unexpectedly good. The supervision under an efficient Board insures sanitary conditions in the home where they are temporarily cared for. It also insures that they shall not be cruelly treated, that they shall be adequately fed, and decently clothed; and in addition it provides some sort of control over the placing-out methods employed by these institutions and associations. So far as has been discovered there is very little fault to be found with the plan which the State is following in caring for orphan children. It might be well to have the almost obsolete provisions for

binding out children from the poorhouses removed from the statute books.

As has already been suggested, the mothers' pension law, if administered by the court at all, should be administered under the supervision of a State expert. In fact, it would be well to place the administration of mothers' pensions under a special officer of the Board of Control. This person should be an expert in scientific charity, and should be able to advise judges as to methods of treating cases which come under the provisions of this law. Furthermore, his suggestions should have the force of law, within due limitations to be set by statute.

The change in the law making the State responsible for one-half the cost of keeping children in the State Soldiers' Orphans' Home, has had the effect of removing most children, except those who have parents in the poorhouses, from those institutions. A law should be passed in the interest of the children, forbidding the keeping of those over two years of age in the county homes. Reference was made when discussing this matter in a previous chapter to the fact that counties had induced relatives to pay the county's half of the cost of keeping a child in the Soldiers' Orphans' Home. This practice points to a loose administration of the law and indicates that stricter provisions should be made for the support of such children by relatives, and more power over this class of children be given some administrative body like the Board of Control in the absence of a special board of children's guardians.

With respect to the county homes radical changes are needed. Ideally the county home can never be a successful institution in the less populous counties of Iowa. In the judgment of the writer a law should be enacted giving adjoining counties the right to erect, at some point centrally located for the counties concerned, a joint county home or poorhouse. The law should forbid the keeping in this institution of children, feeble-minded, or epileptics, and other classes of defectives except the blind or deaf and dumb who are too old to be kept in the State institutions for these classes. The law should make this a home for the aged and infirm. By a slight change, providing for the employment of a farmer for each of these institutions, the farm could be made to pay better than it does at the present time when run by a man who is neither an expert farmer nor an expert in the care of the poor. The law should provide for certain definite qualifications for the steward of a poorhouse. In no unmistakable terms he should be designated as the one to have charge of the inmates of the poorhouse, and to see to their comfort and provide for their employment and happiness.

The advantages of the district infirmary for a rural State like Iowa, especially in those counties where there are no large cities, have been set forth in another connection, but the main points may be summarized here. There would be a larger body of inmates, allowing better classification and specialization in treatment, providing for larger numbers of each class and thus making possible careful atten-

tion to each group of inmates. There would probably be more able-bodied persons to be set to work. The group of the infirm would be large enough so that it would be worth while to secure the services of a better doctor for their treatment. If the chronic insane were retained in connection with the county home, there would be a sufficient number so that they could have a trained alienist and special nurses to care for them; and greater care would probably be taken also to look after their entertainment and happiness. The treatment of larger numbers together would be more economical or would provide at the same cost much better care.

A more complete segregation, not only of the sexes, but of the classes in a poorhouse, should be made. All of these things could be best accomplished in a large institution in a district composed of several counties. Moreover, a district infirmary or poorhouse would have the advantage that it would make possible the establishment in connection therewith of a work-house for the misdemeanants of the counties concerned. Such a plan has been worked out with far-sighted wisdom by the city of Cleveland in its "Cooley Farms". In such an institution, the inmates of the work-house would perform a large part of the labor on the farm connected with the district infirmary.

Since in Iowa there is considerable agitation for the establishment of county sanitoriums for the care of chronic tubercular patients, and since the State has now authorized counties to build such institu-

tions, the district plan would also enable the counties within such a district to combine in the erection of a joint sanitorium, which could be separated on the farm a sufficient distance from the infirmary and the work-house to cause no stigma to attach to the inmates of the sanitorium. With such a combination better buildings could be provided, expert attendants could be hired because better salaries could be paid, better classification of the inmates could be secured, a more personal division of labor between the infirm and able-bodied paupers could be provided for, and the probabilities are that all this could be done at a greatly decreased expense.

These district homes should be under the supervision and regulation of special agents of some central administrative body, such as the State Board of Control or a board of charities. Without State supervision it is doubtful whether the district poorhouse would be any better than the county institution.

As an alternative to the plan of district poorhouses, the State should give the Board of Control authority over all poorhouses, and provide officers appointed by the Board to inspect these institutions. These officers, or the Board itself, should have the power to approve all plans for poorhouses before such buildings are erected by counties. This plan in Indiana has resulted in the erection of an altogether different and better type of poorhouse and has prevented the squandering of the money of the counties on useless buildings.

Changes in the administration of out-relief should also be made. The present system is almost as bad as it is possible to make it. Indiana has secured very great improvement in outdoor relief by the simple device of requiring three things: first, the organization of an unsalaried county board of charities to supervise the work; second, requiring the overseers of the poor in each township to levy a tax upon the property of the township for the amount which they have expended for the out-relief of the poor of that township during the preceding year; and third, requiring quarterly reports from the overseers of the poor to be filed, one copy with the county supervisors, one with the State Board of Charities, and one with the county board of charities. By these three steps Indiana has secured the application of scientific charity to the treatment of the poverty cases in each township. This plan has brought to the attention of the taxpayers of each township any extravagance or wastefulness to which the overseers may have been tempted in order to avoid doing real investigating and constructive work. Again, it has enabled comparisons to be made between the poor relief methods of the various townships throughout the State. In the State of Iowa at the present time no one knows whether one county or one township is doing better than another or not. The township or city which has a good overseer suffers because of a bad one in the neighboring township or city.

In addition to these measures provided by the law of Indiana, if the State Board of Control were given

authority to prescribe rules for the overseers and on recommendation of the proposed county board of charities to discharge an overseer of the poor, and if after a certain length of time the county supervisors should not appoint another, the county board of charities should be authorized to appoint an overseer themselves in the place of the one dismissed, a new day would dawn in the history of Iowa outdoor relief. Since the center of difficulty is the overseer of the poor, upon him must be concentrated the efforts toward remedying the evil conditions. This plan would do that, and furthermore, it would lessen the power and authority of the county board of supervisors — an object very much to be desired so far as poor relief is concerned.

The State Board of Control has repeatedly urged that the care of the indigent insane should be undertaken by State institutions rather than by county asylums. It has presented all the arguments against the supposedly economical but nefarious county system and has demolished that dominant argument that county care of the chronic insane is cheaper than State care. Moreover, it has demonstrated beyond the peradventure of a doubt that State care on the same level as the county care that is now given would be just as cheap if not cheaper. It has also shown, however, that the present grade of care is not desirable either in a State institution or in a county institution.

Without doubt, the patients in the county asylums could receive very much better care in a State in-

stitution, at a cost that would impose no greater burden on the counties. The care of these people is a burden which should not be placed upon the stewards of the county homes, who are not fitted to perform this duty. The insane suffer from neglect, having no expert treatment and in many cases not even sufficient physical care. This is true in spite of the fact that these institutions are under the supervision of the State Board of Control. It is absolutely impossible for the Board to look after the inmates of fifty of these institutions scattered all over the State. Were they gathered together in one or two institutions favorably located, they could be given that expert treatment and adequate care which the dictates of modern civilization demand.

APPENDIX

APPENDIX

TABLE SHOWING THE DERIVATION OF THE SECTIONS OF THE CODE OF 1851 RELATING TO POOR RELIEF

The derivation of over half of the sections of the chapter relating to the relief of the poor as found in the *Code of 1851* is indicated in the following table. Sections 786, 790, 791, 792, 793, 794, 795, 796, 801, 802, 803, 804, 805, 806, 807, 809, 810, 817, 818, 822, 823, 824, 826, 830, 834, and 838 have been omitted, because they evidently were not derived from the statutes of any of the States or Territories from which most of the early laws of Iowa were drawn.

SECTION	SUBJECT	LAWS FROM WHICH DERIVED
Sec. 787	Support by relatives	Iowa, 1840; Wisconsin, 1838; Michigan, 1825; Northwest Territory, 1795; Pennsylvania
Sec. 788	By putative father and mother of bastard	Michigan, 1827
Sec. 789	By relatives — compulsion	Iowa, 1840; Wisconsin, 1838; Michigan, 1825, 1827; Northwest Territory, 1795; Pennsylvania
Sec. 797	Execution for failure to support	Iowa, 1840; Wisconsin, 1838; Michigan, 1825, 1827; Northwest Territory, 1795; Pennsylvania
Sec. 798	Appeal	Michigan, 1827; Northwest Territory, 1795; Pennsylvania
Sec. 799	Seizure of estate of deserter of family	Michigan, 1827, 1833; Northwest Territory, 1795; Pennsylvania

SECTION	SUBJECT	LAWS FROM WHICH DERIVED
Sec. 800	Trustees and directors vested with right to	Michigan, 1827, 1833
Sec. 808	Terms of settlement in county	Iowa, 1842; Michigan, 1827, 1833; Ohio, 1810, 1816, 1829, 1831; Northwest Territory, 1795; Pennsylvania
Sec. 811	Removing paupers not having a settlement	Iowa, 1840, 1842; Wisconsin, 1838; Michigan, 1825, 1827, 1833; Ohio, 1810, 1816, 1831; Northwest Territory, 1795; Pennsylvania
Sec. 812	Warning to depart	Iowa, 1842; Michigan, 1825, 1827, 1833; Ohio, 1805, 1810, 1816, 1831
Sec. 813	Service of warning	Iowa, 1842; Michigan, 1827, 1833; Ohio, 1805, 1810, 1816, 1831
Sec. 814	Method of removal	Iowa, 1842; Ohio, 1805, 1810, 1816, 1831; Northwest Territory, 1795; Pennsylvania
Sec. 815	Liability of county of settlement for relief given	Iowa, 1842; Michigan, 1809, 1827, 1833; Ohio, 1805, 1810, 1816, 1831; Northwest Territory, 1795; Pennsylvania
Sec. 816	Appeal by county to which removed	Michigan, 1827, 1833; Northwest Territory, 1795; Pennsylvania

Sec. 819	Township trustees care of poor in counties where no poorhouse exists	Iowa, 1842; Ohio, 1831
Sec. 820	Application for relief	Iowa, 1840; Wisconsin, 1838; Michigan, 1805, 1817, 1820
Sec. 821	Auditing bills of expense by the court	Michigan, 1809, 1817
Sec. 825	Contract by judge for support of poor	Michigan, 1817, 1824 (Not quite this plan)
Sec. 827	Contractor may employ the poor	Northwest Territory, 1795; Pennsylvania
Sec. 828	County court to erect poorhouse <i>after vote by the people</i>	Michigan, 1829
Sec. 829	Expense defrayed by tax levied on general assessment roll	Iowa, 1842; Michigan, 1830; Ohio, 1816, 1831
Sec. 831	Duties of directors, if appointed	Iowa, 1842; Michigan, 1829, 1830; Ohio, 1816, 1827, 1831
Sec. 832	Oath, records, and vacancies in the board	Iowa, 1842; Michigan, 1829, 1830; Ohio, 1816, 1827, 1831
Sec. 833	Power to make contracts and prescribe rules	Iowa, 1842; Michigan, 1830; Ohio, 1816, 1831
Sec. 835	Admission	Iowa, 1842; Michigan, 1830; Ohio, 1816, 1829, 1831
Sec. 836	May require labor of inmates	Iowa, 1842; Michigan, 1830; Ohio, 1816, 1831

SECTION	SUBJECT	LAWS FROM WHICH DERIVED
Sec. 837	Admission on order of township trustee, director, or county judge	Iowa, 1842; Michigan, (1830); Ohio, (1816), 1831
Sec. 839	Directors bind out poor children	Iowa, 1842; Michigan, 1829; Ohio, 1827, 1831
Sec. 840	Discharge	Iowa, (1842); Ohio, 1831
Sec. 841	Care of pauper unable to be moved to poorhouse to be provided <i>by directors</i>	Iowa, 1842; Ohio, 1831
Sec. 842	Poorhouse to be visited	Iowa, 1842; Michigan, 1830; Ohio, 1816, 1831
Sec. 843	Directors <i>report</i> to county court	Iowa, 1842; Michigan, 1830; Ohio, 1816, 1831
Sec. 844	Expense paid from county treasury. May levy tax	Iowa, 1842; Ohio, 1829, 1831
Sec. 845	Compensation of directors allowed by judge	Iowa, 1842; Ohio, (1829), 1831
Sec. 846	<i>Directors invested with the powers of township trustees</i>	Iowa, (1842); Ohio, (1829)
Sec. 847	County court may farm out the poor	Iowa, (1842); Michigan, (1817, 1824)

NOTE. — Where a date is enclosed in parenthesis, the parallel is not exact but only approximate. In other words, the principle of the original law, rather than its form, was retained in the *Code of 1851*. Again, where a word, or series of words, is italicized in the "Subject" column, it is intended to indicate that the word or words italicized are those containing the idea which is paralleled.

NOTES AND REFERENCES

NOTES AND REFERENCES

CHAPTER I

¹ Chase's *Statutes of Ohio*, Vol. I, pp. 107, 108.

Where this law was obtained can not be determined. At least Chase's *Statutes of Ohio* gives no indication. Notes showing the State from which each law was adopted do not appear until one comes to the laws of 1795. Chase says that the Governor and Judges did not observe the requirements of the Ordinance to adopt laws from the original States during the period from 1788 to 1795.—See Chase's *Statutes of Ohio*, Vol. I, pp. 19, 20.

He also states that this was one of the eleven laws passed "by governor St. Clair and Judges Symmes and Turner".—Chase's *Statutes of Ohio*, Vol. I, p. 106 (footnote).

² In this connection it may not be out of place to observe that the recently much discussed mothers' pension bills put the administration of this form of relief back into the hands of a court.

³ Chase's *Statutes of Ohio*, Vol. I, pp. 175-182.

A large part of this act was a faithful copy of the various statutes of Elizabeth from 1575 to 1601. It is remarkable how long the influence of that provision of the English statute, 18 Eliz. c. 3, lasted, which required that the authorities provide a stock of wool, flax, etc. on which the poor could work. See Leonard's *English Poor Relief*, p. 72; Nicholls's *History of the English Poor Law*, Vol. I, pp. 170, 171.

⁴ Chase's *Statutes of Ohio*, Vol. I, pp. 284, 285.

⁵ Chase's *Statutes of Ohio*, Vol. I, pp. 513-515.

⁶ Chase's *Statutes of Ohio*, Vol. I, p. 591.

⁷ Chase's *Statutes of Ohio*, Vol. I, pp. 695, 696. In fact, this law, aside from the omission of Section 10 of the old act, made no change in the existing state of things. Section 10 related to be-

quests and gifts for the benefit of the poor, and was put back into the law by the act of February 10, 1816.

⁸ Chase's *Statutes of Ohio*, Vol. II, pp. 943-945.

⁹ Chase's *Statutes of Ohio*, Vol. II, p. 998.

¹⁰ The special act establishing a poorhouse in Wayne County, Territory of Michigan, passed on June 23, 1828, had a similar provision, but it was not so thoroughgoing and did not apply outside of Wayne County. Doubtless, however, both the latter and the act of October 29, 1829, were affected by the existence of the Ohio law. *Laws of the Territory of Michigan*, Vol. II, pp. 677, 727.

¹¹ Chase's *Statutes of Ohio*, Vol. III, p. 1626.

¹² Chase's *Statutes of Ohio*, Vol. III, p. 1832.

¹³ Chase's *Statutes of Ohio*, Vol. I, p. 176.

¹⁴ Chase's *Statutes of Ohio*, Vol. I, pp. 998-1000.

¹⁵ Chase's *Statutes of Ohio*, Vol. III, p. 1547.

¹⁶ Chase's *Statutes of Ohio*, Vol. III, p. 1619.

¹⁷ Chase's *Statutes of Ohio*, Vol. III, p. 1829.

¹⁸ *Ohio General Laws*, Thirty-Second General Assembly, 1833-34, pp. 35, 36.

CHAPTER II

¹⁹ Shambaugh's *Documentary Material Relating to the History of Iowa*, Vol. I, pp. 49, 59, 61.

²⁰ McCarty's *Territorial Governors of the Old Northwest*, pp. 121, 122-136; and Shambaugh's *Documentary Material Relating to the History of Iowa*, Vol. I, pp. 71, 72. These were "adaptations" in a very much looser sense than the word had for the authorities of the Northwest Territory after 1795. See Chase's *Statutes of Ohio*, Vol. I, pp. 19, 26.

²¹ *Laws of the Territory of Michigan*, Vol. I, pp. 90, 208; and Shambaugh's *Documentary Material Relating to the History of Iowa*, Vol. II, p. 116.

²² *Laws of the Territory of Michigan*, Vol. II, pp. 40-42.

²³ *Laws of the Territory of Michigan*, Vol. II, pp. 115, 116.

²⁴ *Laws of the Territory of Michigan*, Vol. II, pp. 595-602; and Shambaugh's *Documentary Material Relating to the History of Iowa*, Vol. II, p. 204.

²⁵ *Laws of the Territory of Michigan*, Vol. II, p. 130.

²⁶ *Laws of the Territory of Michigan*, Vol. I, p. 531.

²⁷ *Laws of the Territory of Michigan*, Vol. II, p. 185.

²⁸ *Laws of the Territory of Michigan*, Vol. II, p. 287, 288.

²⁹ *Laws of the Territory of Michigan*, Vol. II, p. 727.

³⁰ *Laws of the Territory of Michigan*, Vol. III, p. 868.

³¹ *Laws of the Territory of Michigan*, Vol. III, p. 1038.

³² *Laws of the Territory of Michigan*, Vol. III, pp. 822-824.

³³ *Laws of the Territory of Michigan*, Vol. III, pp. 1134-1142.

³⁴ *Laws of the Territory of Michigan*, Vol. II, p. 130.

³⁵ By an act approved on March 6, 1833, the legislature provided that the county supervisors should direct the collector of the taxes in each town (township) to pay "to the director of the poor such money as shall be raised for the maintenance of the poor of such town". This money for the relief of the poor was to be paid "out of the first money which shall be collected", seemingly giving the poor a first claim upon the money raised for township expenses.—*Laws of the Territory of Michigan*, Vol. III, p. 982.

³⁶ *Laws of the Territory of Michigan*, Vol. II, p. 677.

³⁷ *Laws of the Territory of Michigan*, Vol. III, p. 986.

³⁸ *Laws of the Territory of Michigan*, Vol. III, p. 1293.

CHAPTER III

³⁹ *Laws of the Territory of Wisconsin*, 1836-38, p. 11.

⁴⁰ "Local assessments appear to have been made from time to time in Green Bay, but apparently no regular tax was levied until after 1833. It was, indeed, not until the organization of Wisconsin Territory that all of the region included within its bounds came under the operations of a well-regulated system of administration. . . . Even the school taxes of 1838-1840 created much dissatis-

faction, and for a time they necessarily were made optional with the community."—Thwaites's *Wisconsin*, p. 280.

⁴¹ "A census taken in August [1836], as a basis of apportioning members of the legislature to the various counties, showed a total population of 22,218. Des Moines was first, with 6,257; Iowa next, with 5,234; Dubuque third, with 4,274; Milwaukee fourth, with 2,893; Brown fifth, with 2,706, and Crawford last, with 854."—*Wisconsin in Three Centuries* (New York: The Century History Co., 1906), p. 301.

⁴² *Laws of the Territory of Wisconsin*, 1836-38, pp. 178-181.

⁴³ The organization of boards of county commissioners was provided for by an act of December 20, 1837.—*Laws of the Territory of Wisconsin*, 1836-1838, p. 138.

CHAPTER IV

⁴⁴ *Journal of the House of Representatives*, 1838-1839, pp. 79, 83, 96, 104; *Journal of the Council*, 1838-1839, pp. 92, 93, 198.

⁴⁵ *Laws of the Territory of Iowa*, 1838-1839, p. 276.

⁴⁶ *Journal of the Council*, 1839-1840, pp. 49, 52, 142, 159; *Journal of the House of Representatives*, 1839-1840, pp. 216, 226; and *Laws of the Territory of Iowa*, 1839-1840, pp. 83, 84. Governor Robert Lucas in a communication to the Council under date of January 16, 1840, acknowledged the receipt of "an act for the relief of the poor."—See Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. I, p. 201. In the *Executive Journal* of Governor Lucas in a memorandum of bills and resolutions under date of January 16, 1840, there is one entitled "An act for the relief of the Poor", which is marked "approved".—See Shambaugh's *Executive Journal of Iowa, 1838-1841*, p. 310.

⁴⁷ *Laws of the Territory of Wisconsin*, 1836-38, p. 178.

⁴⁸ *Laws of the Territory of Iowa*, 1839-1840, pp. 83, 84.

⁴⁹ The Michigan law of 1825 included the entire list of relatives; the law of 1827 dropped out brothers and sisters; while the act of 1833 omitted the section entirely. On the other hand, the Wisconsin law which the legislators of the Territory of Iowa borrowed included all of the relatives mentioned in the Michigan law of 1825 and the

act of the Northwest Territory of 1795, with the proviso that no one but parents and children were to be held responsible for paupers who were such by reason of intemperance or bad conduct. Moreover, since the Iowa statute omitted some of the relatives which the Wisconsin law named as responsible for the care of pauper relatives, it was natural that it should also omit that part of the law which related to the order in which these parties were liable for the support of paupers.

⁵⁰ *Laws of the Territory of Iowa, 1839-1840*, pp. 48, 49.

⁵¹ *Laws of the Territory of Iowa, 1840*, Extra Session, p. 20.

This may have been thought necessary by the legislators not only by reason of the fact that the laws of Michigan and Wisconsin had been extended over this new Territory by the Organic Act, but also by reason of the provision in section six of the Wisconsin act providing for the care of non-residents who might fall sick in the Territory, by the overseers of the poor of the township. The new Iowa law did not provide for township overseers.

⁵² *Journal of the House of Representatives, 1841-1842*, pp. 128, 146, 158, 159, 167; and *Journal of the Council, 1841-1842*, pp. 156, 157, 161, 223.

⁵³ *Journal of the House of Representatives, 1841-1842*, pp. 158, 159. The following quotation from a contemporary newspaper will show the attitude of mind then dominant in the legislature.

“Mr. Hepner from the committee on memorials, reported Nos. 2 and 32 C. F. and Nos. 66 and 80 H. R. file, back to the house without amendment, and recommended the passage of the same.

“Mr. Morgan, from the committee on the judiciary, to which was referred certain petitions and remonstrances to the law regulating blacks and mulattoes, submitted the following report:

“That they have considered the subject as set forth, both in the petitions and in the remonstrances, and are of opinion that it would be inexpedient, if not dangerous, to have any additional legislation on the subject.

“The existing law is, in the opinion of your committee, essential to the protection of the white population against an influx of runaway slaves and outcast blacks from adjoining States; and your committee are also of opinion that said law is already sufficiently liberal in its provisions respecting such blacks and mulattoes as may

choose to make a home in our Territory. So far, then, from recommending any alteration in our law on this subject, giving still greater liberty and protection to blacks and mulattoes your committee think that an amendment to the law, prohibiting positively their settlement among us, would approach more nearly the true policy of our Territory. But this course your committee do not now feel fully instructed to recommend.

"Your committee refrain from any discussion of this subject, as it is one which has already created a dangerous excitement throughout the States of the Union; and your committee, deprecating all such excitements as dangerous to the interest and happiness of society, deem it most prudent to meet the first outburst of the spirit of fanaticism among us with a respectful silence rather than run the risk of increasing its fury by discussion and formal opposition.

"Your committee, therefore, recommend that no legislative action be taken in regard to the prayers of the petitioners, and ask to be discharged from the further consideration of the subject."—*Iowa Capitol Reporter* (Iowa City), February 12, 1842, from the report of the business of the House of Representatives, February 9, 1842.

⁵⁴ *Laws of the Territory of Iowa*, 1841-1842, pp. 58-60.

⁵⁵ *Laws of the Territory of Iowa*, 1841-1842, pp. 83-85.

⁵⁶ Both were copied from the Ohio laws of 1831. The dependence of the poorhouse law upon the Ohio law of 1831 was first brought out by Dr. Aurner in his work on the *History of the Township Government in Iowa*, Ch. XVI.

⁵⁷ *Laws of the Territory of Iowa*, 1843-44, p. 18. The course of this act through the two houses of the legislature shows that there was no particular interest in the matter.—See *Journal of the House of Representatives* 1843-1844, pp. 168, 179, 185, 231; and *Journal of the Council*, 1843-1844, pp. 149, 151, 153, 154.

⁵⁸ *Laws of the Territory of Iowa*, 1845, p. 28.

CHAPTER V

⁵⁹ *Constitution of Iowa*, 1846, Article XIII, Sec. 2, in Shambaugh's *Documentary Material Relating to the History of Iowa*, Vol. I, p. 208.

⁶⁰ *Laws of Iowa*, 1846-1847, p. 150. The repeal of the law of

1844 by this act affected no important principle, as the provisions of the former related solely to the paying for the support of the poor out of the county treasury, rather than out of the township treasuries as was sometimes the case, and the auditing of the accounts involved in the expenses for the support of the poor by the county commissioners.—See *Laws of the Territory of Iowa*, 1843-1844, p. 18.

⁶¹ *Laws of Iowa*, 1846-1847, p. 182.

⁶² *Laws of Iowa*, 1848-1849, p. 62.

⁶³ *Laws of Iowa*, 1850-1851, p. 77. For the provisions see note 69 where this act is described.

⁶⁴ *Laws of Iowa*, 1850-1851, p. 230.

⁶⁵ The history of these two bills in their passage through the two houses will perhaps throw some light upon the methods of legislation in general and the results of legislation for the poor in particular during this period. The bill providing for the poorhouse in Des Moines County was introduced by Mr. Milton D. Browning on February 10, 1847. It was read a first and second time and on his motion was then laid upon the table. In the afternoon of that day it was taken from the table and referred to a select committee composed of the Senators from Des Moines County. On the next day this committee reported it to the Senate with two amendments, which were concurred in, and the bill was then ordered to be engrossed and read a third time on the next day. This was done on the 12th and the bill passed. On the motion of Mr. Samuel Fullinwider the title was amended to read "require" in stead of "authorize".—*Journal of the Senate*, 1846-1847, pp. 204, 206, 211, 214.

In the House the bill was read a first time on February 15th, and a second time on the 18th, at which time Mr. William J. Cochran, who later introduced the bill applying to Lee County, moved to amend the bill by including Lee County within its scope. This was agreed to by the House and the bill was then referred to a select committee composed of the members from the counties of Lee and Des Moines. On February 24th, Mr. Alfred Hebard of the select committee to which it had been referred reported it back to the House with amendments. The amendments were concurred in, the rules suspended and the bill read a third time, passed, the title agreed to, and the chief clerk ordered to acquaint the Senate of that fact.—

Journal of the House of Representatives, 1846-1847, pp. 311, 342, 343, 411.

That during the discussion of this bill in the select committee of the House the amendment by which Lee County was included in its provision was eliminated is to be inferred from the fact that the Senate concurred in the amendments as passed by the House on motion of Mr. Browning, thus indicating that any changes made in the bill were made in the House.—*Journal of the Senate*, 1846-1847, p. 293. As approved by the Governor and printed it did not contain the amendment including Lee County.

During the time while this bill was in the hands of the select committee of the House, from the 18th to the 24th, it must have become clear to the committee that for some reason Lee County should not be included for on the 22nd Mr. Cochran introduced House File No. 132, a "bill for the relief of the poor" which became a law on the same day as the other and applied only to Lee County.—*Journal of the House of Representatives*, 1846-1847, p. 375.

The reasons for the decision to have two bills instead of one may be inferred from the fact that the bill for Lee County was quite different from that for Des Moines County. One act approved on February 25, 1847, repealed the Territorial act of February 12, 1844, in the county of Lee and gave the commissioners of that county authority to have the citizens vote on the question of the erection of a county poorhouse. The second act, approved on the same day, required the county commissioners' court of Des Moines County to purchase any amount of land up to the two hundred acres for the purpose of establishing thereon a poorhouse and farm. It also provided that the provisions of the law of February 17, 1842, for a board of directors for the poorhouse were to be repealed in their application to the county of Des Moines. The duties of this board were made by this act the duties of the county commissioners' court. In other respects the act of 1842 was to remain in full force in the county of Des Moines.—*Laws of Iowa*, 1846-1847, pp. 150, 182

On January 12, 1849, a special act repealed the law of February 25, 1847. Again on February 4, 1851, by a special act the legislature provided that the county commissioners of Lee County were authorized to purchase any quantity of land for a poorhouse up to two hundred and forty acres. It was to be located and managed along lines similar to those laid down in 1847 for Des Moines County. In order to bring about legislative consistency it was necessary on the

following day to repeal the act of January 12, 1849, which repealed the previous act of February 25, 1847, thus reviving the latter. Nothing could more clearly show how chaotic were legislative conditions at this time than this series of special acts relating to the counties of Lee and Des Moines.—*Laws of Iowa*, 1848-1849, p. 62; 1850-1851, pp. 77, 230.

⁶⁶ During this session, on February 18th, another bill of the same general nature, but applying to Muscatine County, was introduced into the House as House File, No. 121. This bill, however, after being read the second time, was laid on the table from which it was never taken.—*Journal of the House of Representatives*, 1846-1847, p. 342.

⁶⁷ *Laws of Iowa*, 1847-1848, p. 95.

⁶⁸ Powell's *History of the Codes of Iowa Law*, in the *Iowa Journal of History and Politics*, Vol. X, No. 1, pp. 12-14.

⁶⁹ McClain's *Charles Mason — Iowa's First Jurist*, in the *Annals of Iowa* (Third Series), Vol. IV, p. 607.

⁷⁰ *Code of 1851*, pp. 124-132.

⁷¹ *Code of 1851*, pp. 128, 129.

⁷² *Code of 1851*, p. 130.

⁷³ Compare *Code of 1851*, pp. 131, 132; *Laws of the Territory of Iowa*, 1841-1842, pp. 83-85; and *Laws of the Territory of Michigan*, Vol. II, pp. 727-731, Vol. III, pp. 822-824; and Chase's *Statutes of Ohio*, Vol. II, pp. 998-1000; Vol. III, pp. 1547, 1548, 1829-1832.

⁷⁴ *Code of 1851*, pp. 124-132.

⁷⁵ Bowman's *The Administration of Iowa*, in the *Columbia University Studies in History, Economics and Public Law*, Vol. XVIII, No. 1, p. 171.

⁷⁶ Crawford's *The County Judge System of Iowa with Special Reference to its Workings in Pottawattamie County*, in the *Iowa Journal of History and Politics*, Vol. VIII, p. 482.

⁷⁷ Garver's *The History of County Government in Iowa* (not yet published).

⁷⁸ McClain's *Charles Mason — Iowa's First Jurist*, in the *Annals of Iowa* (Third Series), Vol. IV, p. 608.

⁷⁹ *Report of the Code Commissioners, 1859*, p. 190; Powell's *History of the Codes of Iowa Law*, in the *Iowa Journal of History and Politics*, Vol. X, p. 43.

⁸⁰ The *Code of 1851* was compared both with the first revision of the New York laws and with the sixth edition of *The Revised Statutes of the State of New York, 1875*, Vol. II, Ch. XX, Title I, where the sections which belonged to the first revision are indicated. It is possible that had the Field reports been at hand a study of these would have revealed many more similarities, and the greater debt of the Iowa Code Commissioners to these reports. This is hardly probable, however, as the *Revised Statutes of the State of New York* show close agreement only in these sections.

⁸¹ *Laws of Iowa, 1854-1855*, p. 7.

⁸² *Laws of Iowa, 1858*, p. 282.

⁸³ *Laws of Iowa, 1860*, p. 48. The amount of land purchased in this case is mentioned, namely, "one hundred and ten acres".

⁸⁴ *Laws of Iowa, 1856*, p. 454.

⁸⁵ In Pottawattamie County objection to the county judge system was first aroused over the action of the judge in loaning out the money received from the swamp lands instead of using it to buy a county farm, as was apparently voted by the electors of the county. See Crawford's *The County Judge System in Iowa*, in the *Iowa Journal of History and Politics*, Vol. VIII, p. 489.

Finally the judge bought the land for the county poor farm, and was then accused by his political enemies of going beyond his authority. His friends in the next legislature secured the adoption of an act legalizing his action. As a matter of fact his enemies were right in asserting that he had exceeded his authority, whether or not the editor of the Council Bluffs *Daily Morning Bugle* was correct in saying that two years before, according to his recollection, the people had voted to use some of the swamp land money for the purchase of a poor farm, for the law granting the swamp lands to the counties provided that it should be used to build roads and bridges.

As to official corruption on the part of the judges see Crawford's *The County Judge System of Iowa*, in the *Iowa Journal of History and Politics*, Vol. VIII.

Bloomer says: "During the early part of 1859, a tract of land

for a poor-farm was purchased''.—Bloomer's *Notes on the History of Pottawattamie County*, in the *Annals of Iowa*, July, 1872, Vol. X, p. 183. This can not be true for the act legalizing the purchase of real estate for a poor farm was approved on March 23, 1858.—*Laws of Iowa*, 1858, p. 282. Therefore, it must have been early in 1858, as Crawford asserts in his article referred to above. As a matter of fact Judge Nye bought the land in the spring of 1858, but at what was claimed an exorbitant price. In the indignation which broke out in connection with this transaction his authority to do this was called in question, with the result of the legislative action referred to above. See *Journal of the Senate*, 1858, pp. 506, 533, 595, 596; *Journal of the House of Representatives*, 1858, pp. 776, 781; and *Laws of Iowa*, 1858, p. 282.

An attempt had been made three years before this to divert the income from the swamp lands by a bill introduced by the representative from Pottawattamie County, but while it passed the two houses apparently with but little opposition, it did so only in the last days of the session and failed to receive the Governor's signature. Under the Constitution of the State at that time a bill so failing to receive the Governor's sanction did not become a law if the legislature adjourned within three days of the time when it was sent to the Governor. For the course of the bill through the legislature see *Journal of the House of Representatives*, 1854-1855, pp. 228, 322, 366, 408, 415, 437, 439; and *Journal of the Senate*, 1854-1855, pp. 256, 282, 297, 314.

While this bill failed to become a law, it is quite possible that the county judge of Pottawattamie County may have labored under the impression that since it has passed both houses of the legislature and had not been vetoed, that it was a law, and therefore he proceeded to buy the land with the swamp land money.

⁸⁶ See the *Revision of 1860*, Sec. 1354. Compare the *Code of 1851*, Sec. 786.

⁸⁷ *Revision of 1860*, Sec. 312, sub-sections 20, 23.

⁸⁸ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, pp. 258, 259.

⁸⁹ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 261.

⁹⁰ *Laws of Iowa*, 1861, Extra Session, p. 3.

⁹¹ *Laws of Iowa*, 1861, Extra Session, p. 31.

⁹² Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, pp. 498, 499.

⁹³ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, pp. 457, 458.

⁹⁴ *Laws of Iowa*, 1862, Extra Session, pp. 37-39.

⁹⁵ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, pp. 349, 350; and *Laws of Iowa*, 1864, p. 36.

⁹⁶ *Laws of Iowa*, 1864, pp. 99-101.

⁹⁷ *Laws of Iowa*, 1866, Ch. 25, p. 23.

⁹⁸ *Laws of Iowa*, 1868, Ch. 86, Sec. 3, pp. 113, 114.

⁹⁹ *Laws of Iowa*, 1868, Ch. 95, pp. 130, 131.

This bill, introduced by Mr. John A. Kasson of Polk County on March 13, 1868, was debated on March 25th when called up by Mr. Benjamin W. Johnson of Marshall County for a third reading. Mr. Thomas S. Wilson of Dubuque moved to strike out the words "the city council of any incorporated city of the first class", saying that he was opposed to sending the orphans and widows of soldiers to the poorhouse, but the motion failed to carry. Mr. John M. Garrett moved a reconsideration, but this motion likewise failed. After some attempts to amend section three as it stood in the original bill Mr. A. R. Cotton's motion to substitute a new section for section three carried and the section as it was finally adopted in the law was inserted. The strange wording in the last part of the first section is explained by the fact that Mr. Horace Hamilton's motion to insert after the word "lights" in the sixth line the words "medical attendance" finally carried and that Mr. Trusdell's motion afterwards to add to the end of the section as it originally stood the words "exclusive of medical attendance" was carried, thus resulting in a section which seems in one part to include medical attendance and in the other to exclude it from the total of two dollars a week allowed for each person aided. Mr. Charles Dudley moved to strike out the words "other persons" in the first line of section two, but his motion failed.—*Journal of the House of Representatives*, 1868, pp. 382, 385, 472, 488, 611, 634, 639.

During the debate Mr. L. W. Babbitt made an unsuccessful motion

to strike out the whole of section two. Mr. Brannock Phillips urged against the provisions of the bill that if the words "other persons" and "and prefer to" were left in the bill, no one would go to the poorhouses, with the result that these institutions would become utterly useless and deserted, for all would prefer to be kept outside the poorhouse rather than in it. Mr. John A. Kasson replied by saying that it was the intention of the bill to give those in families the choice of being supported outside at two dollars per week each, or go to the poorhouse, and that so far as the fear that the poorhouses would be deserted was concerned he hoped that God would hasten the day when this should be so, to which several members responded with an "Amen". Mr. John Y. Stone tried to have an amendment adopted providing for the sending of the children of soldiers to the nearest orphans' home, but after Mr. Kasson had pointed out that the numbers were so great the homes could not accommodate them, Mr. Stone withdrew his motion.—*Iowa State Register* (Weekly), April 1, 1868.

There is no hint either in the *Journal* or in the press as to why only incorporated cities of the first class and townships were included within the provisions of the act.

¹⁰⁰ In an issue of the *Iowa State Register* (Weekly) of April 8, 1868, the editor, under the caption of "A Righteous Bill", says:

"We are glad that in the mass of local legislation, enactments of general interest are not overlooked by the General Assembly. One of the most necessary measures of this kind, passed almost unanimously in the House of Representatives, is House File, No. 319, for the relief of certain classes of indigent persons and particularly designed to afford relief to the families of deceased soldiers, without requiring them to be sent to the poor-house. There is no other civilized country whose laws make no provision for furnishing needed aid, outside of the poor-house, to certain classes of indigent unfortunate citizens. In Iowa we have no outdoor poor law, and hundreds of worthy but indigent persons, in families, have suffered untold privation and misery, by reason of the want of such a law. A respectable, sensible mother, or disabled, unfortunate father surrounded by her, or his, flock of little suffering children, will suffer on almost to the point of starvation, rather than take their children to one of our county poor-houses, which, in nine cases out of ten, is utterly unfit for their reception. As the law is now, hundreds of

honorable indigent persons in the State are supplied, or partially supplied, by private charity, who should be aided by the county in which they live. In many cases they are furnished more or less assistance by the township trustees, or the board of supervisors, who take the responsibility of giving some relief, without any law to authorize it. That there should be a law authorizing such acts of public humanity, is too manifest to admit of argument; and we sincerely trust that the Senate, in this matter, will follow the example of the House and give its sanction to the enactment at once."

The writer of this editorial was not quite correct in saying that Iowa had no outdoor relief at that time. See Sec. 1390, *Revision of 1860*. This had been in the law from at least 1851. Doubtless, however, the editorial reflects the actual practice.

¹⁰¹ *Laws of Iowa*, 1870, p. 38.

¹⁰² *Laws of Iowa*, 1872, p. 72.

¹⁰³ Powell's *History of the Codes of Iowa Law*, in the *Iowa Journal of History and Politics*, Vol. XI, pp. 182-185, especially note 73, on p. 185. For a full statement see *Report of Commissioners to Revise the Statutes*, 1871, p. 33.

¹⁰⁴ *Report of Code Commission*, 1873, Title XI.

¹⁰⁵ *Report of Code Commission*, 1873, Title XI.

¹⁰⁶ *Journal of the House of Representatives*, 1873, pp. 243, 244.

¹⁰⁷ See *Code of 1873*, pp. 245-251; and *Code of 1851*, pp. 124-132.

¹⁰⁸ Senate File No. 147 was introduced by Senator Joseph H. Merrill of Wapello County in 1874 to amend this part of the Code.—*Journal of the Senate*, 1874, pp. 150, 189.

¹⁰⁹ *Laws of Iowa*, 1876, p. 21.

¹¹⁰ *Laws of Iowa*, 1878, p. 33.

¹¹¹ *Journal of the House of Representatives*, 1876, pp. 55, 68, 105, 116, 123, 514, 603.

¹¹² *Laws of Iowa*, 1876, p. 143.

¹¹³ *Laws of Iowa*, 1878, p. 153.

¹¹⁴ *Laws of Iowa*, 1880, pp. 128, 129.

¹¹⁵ *Laws of Iowa*, 1888, p. 137.

- ¹¹⁶ *Laws of Iowa*, 1897, Extra Session, p. 15.
- ¹¹⁷ *Laws of Iowa*, 1882, p. 55. Contracts for the new buildings amounted to \$12,500.
- ¹¹⁸ *Laws of Iowa*, 1892, p. 171.
- ¹¹⁹ *Laws of Iowa*, 1897, Extra Session, pp. 30, 31.
- ¹²⁰ *Laws of Iowa*, 1894, Ch. 115.
- ¹²¹ *Report of the Code Commission*, 1896, p. 1.
- ¹²² *Report of the Code Commission*, 1896, pp. 3, 4.
- ¹²³ *Report of the Code Commission*, 1896, pp. 64, 65.
- ¹²⁴ See the so-called "Black Code", the proposed code of the Commission of 1896, pp. 437-443.
- ¹²⁵ *Laws of Iowa*, 1907, Ch. 254, p. 254.
- ¹²⁶ *Laws of Iowa*, 1909, Ch. 132, p. 131.
- ¹²⁷ *Laws of Iowa*, 1909, Ch. 29, p. 29.

CHAPTER VI

¹²⁸ As a matter of fact the 27 Hen. VIII, c. 25 provides that the poor shall be cared for by their own neighborhoods. See Leonard's *English Poor Relief*, p. 55.

A law of settlement was first introduced into English Parliamentary statutes in the reign of Charles II (13 and 14, Car. II, c. 12), but this statute simply embodied in positive enactment what had long been English custom. See Leonard's *English Poor Relief*, pp. 107, 109.

- ¹²⁹ *Laws of the Territory of Wisconsin*, 1836-1838, pp. 178-181.
- ¹³⁰ *Laws of the Territory of Iowa*, 1841-1842, pp. 58-60.
- ¹³¹ *Code of 1851*, pp. 124, 127.
- ¹³² See the so-called "Black Code", the code proposed by the Commission in 1896, Secs. 9, 11, pp. 437-443.
- ¹³³ *Code of 1897*, Secs. 2224-1, and 2226.
- ¹³⁴ *Code of 1851*, Sec. 808-1; Chase's *Statutes of Ohio*, Vol. III, p. 1832; and *Laws of the Territory of Iowa*, 1841-1842, p. 58.

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¹³⁵ *Code of 1851*, Sec. 808-1; *Laws of Iowa*, 1864, Ch. 40; *Code of 1873*, Sec. 1352-1; and *Code of 1897*, Sec. 2224-1.

¹³⁶ *Code of 1851*, Sec. 808-3; *Report of the Code Commission*, 1873, Title XI, Sec. 23-3; *Code of 1873*, Sec. 1352-3; and *Code of 1897*, Sec. 2224-3.

¹³⁷ *Code of 1851*, Sec. 808-4, 808-5.

¹³⁸ See *Report of the Code Commission*, 1873, Title XI, Sec. 23-4; and *Code of 1851*, Sec. 808-4.

¹³⁹ *Code of 1851*, Sec. 808-6; *Code of 1873*, Sec. 1352-6; and *Code of 1897*, Sec. 2224-6.

¹⁴⁰ *Laws of the Territory of Iowa*, 1841-1842, p. 58.

¹⁴¹ *Code of 1851*, Sec. 808-7; *Code of 1873*, Sec. 1352-7; and *Code of 1897*, Sec. 2224-7.

¹⁴² *Code of 1851*, Sec. 809; *Code of 1873*, Sec. 1353; and *Code of 1897*, Sec. 2224.

¹⁴³ *Laws of the Territory of Iowa*, 1841-1842, p. 58.

¹⁴⁴ *Code of 1851*, Sec. 813.

¹⁴⁵ *Code of 1851*, Sec. 814.

¹⁴⁶ *Code of 1851*, Secs. 815-818.

¹⁴⁷ *Code of 1873*, Secs. 1357-1360.

¹⁴⁸ The codifiers made it three days, but the legislature changed the number to fifteen. See "Black Code", 1896, pp. 437-443.

¹⁴⁹ *Code of 1897*, Sec. 2228. The Code Commissioners had proposed ten days as the term within which notices must be filed with the district court.—See "Black Code", 1896, pp. 437-443.

¹⁵⁰ Aschrott and Preston-Thomas's *The English Poor Law System*, pp. 9-13.

CHAPTER VII

¹⁵¹ *Code of 1851*, Secs. 812-847.

¹⁵² *Revision of 1860*, Sec. 1354; *Laws of Iowa*, 1868, p. 114; *Code of 1873*, Sec. 1333; and *Code of 1897*, Sec. 2218.

¹⁵³ *Code of 1873*, Sec. 1343; and *Code of 1851*, Sec. 803.

¹⁵⁴ *Code of 1873*, Sec. 1348; and *Code of 1851*, Sec. 804.

¹⁵⁵ *Code of 1897*, Secs. 2219, 2222, 2223.

¹⁵⁶ *Code of 1873*, Sec. 1354; *Code of 1897*, Secs. 2225-2227; and *Code of 1851*, Secs. 811-814.

¹⁵⁷ *Laws of Iowa*, 1868, pp. 130, 131; *Code of 1873*, Secs. 1330-1382; and *Code of 1897*, Secs. 2227, 2228, 2235.

¹⁵⁸ *Code of 1897*, Sec. 2230.

¹⁵⁹ *Code of 1897*, Secs. 2230, 2231. This was a modification of the provisions found in the *Code of 1873*, Sec. 1361, and in the enactments of the Sixteenth General Assembly, Ch. 26, and of the Seventeenth General Assembly, Ch. 37.

¹⁶⁰ *Code of 1897*, Sec. 2234. This was a modification of the *Code of 1873*, by the incorporation of the provisions of the act approved on April 10, 1888.—*Laws of Iowa*, 1888, p. 137. It is interesting to note that the Code here differs slightly from the recommendations of the Code Commission of 1896. See the "Black Code", 1896, pp. 437-443, Sec. 20.

¹⁶¹ *Code of 1897*, Sec. 2239.

¹⁶² *Code of 1897*, Sec. 2240; and *Code of 1873*, Sec. 1371.

¹⁶³ *Code of 1897*, Sec. 2241. See also *Code of 1873*, Sec. 1372.

¹⁶⁴ *Code of 1897*, Sec. 2245; and *Code of 1873*, Sec. 1379.

¹⁶⁵ *Code of 1897*, Sec. 2234.

¹⁶⁶ *Code of 1873*, Secs. 1357, 1359.

¹⁶⁷ *Code of 1897*, Sec. 2228.

¹⁶⁸ *Code of 1851*, Sec. 814. Doubtless he had many more duties than the one mentioned in the Code would indicate, but if he had, it was because of his close relations with the county judge and because he was a kind of subordinate of the court.

¹⁶⁹ *Code of 1873*, Secs. 1343, 1348, 1359; and *Report of the Code Commission*, 1873, Title XI, Secs. 19, 25.

¹⁷⁰ *Code of 1851*, Secs. 789, 797, 799, 800, 802, 803, 813, 814, 830-843, 845, 846.

¹⁷¹ *Report of the Code Commission*, 1873, Title XI, Sec. 43. In

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1875 fifty-three counties of the State had poorhouses. See *Iowa Legislative Documents*, 1876, Vol. II, No. 21, p. 25.

¹⁷² *Code of 1851*, Sec. 790.

¹⁷³ *Revision of 1860*, Sec. 1358.

¹⁷⁴ *Code of 1873*, Sec. 1333.

¹⁷⁵ *Code of 1873*, Sec. 1343.

¹⁷⁶ *Code of 1851*, Sec. 826; *Code of 1873*, Sec. 1370; and *Code of 1897*, Sec. 2239.

¹⁷⁷ See p. 4.

¹⁷⁸ See the writer's paper on *The County Homes of Iowa*, in the *Proceedings of the Thirteenth Iowa State Conference of Charities and Correction*, 1911, p. 41.

¹⁷⁹ *Code of 1851*, Sec. 827; *Code of 1873*, Sec. 1371; and *Code of 1897*, Sec. 2240.

¹⁸⁰ *Code of 1851*, Sec. 834; *Code of 1873*, Sec. 1374; and *Code of 1897*, Sec. 2243. Where the title of steward was obtained by the code-makers of 1851 is not known.

¹⁸¹ *Code of 1851*, Sec. 837; and *Revision of 1860*, Secs. 1403-1405.

¹⁸² *Code of 1851*, Sec. 834, 835, 836; *Code of 1873*, Secs. 1374, 1375; and *Code of 1897*, Secs. 2243, 2244.

¹⁸³ *Code of 1873*, Sec. 1376. According to the *Code of 1851* and the *Revision of 1860* the proceeds from the labor of paupers received into the poorhouse were to be so appropriated.

¹⁸⁴ See the writer's paper on *The County Homes of Iowa*, in the *Proceedings of the Thirteenth Iowa State Conference of Charities and Correction*, 1911, p. 46, for the sentiments of some poorhouse stewards of Iowa.

CHAPTER VIII

¹⁸⁵ See above p. 14. See also Chase's *Statutes of Ohio*, Vol. I, pp. 513-515.

¹⁸⁶ See above pp. 51, 54, 65.

¹⁸⁷ *Code of 1851*, Secs. 789, 795, 799-802, 813, 837; *Revision of 1860*, Secs. 1381, 1403-1405; and *Code of 1897*, Secs. 2227, 2244.

- ¹⁸⁸ *Code of 1851*, Sec. 814; and *Revision of 1860*, Sec. 1382.
- ¹⁸⁹ *Code of 1851*, Sec. 819; *Revision of 1860*, Sec. 1387; *Code of 1873*, Sec. 1364; and *Code of 1897*, Sec. 2233.
- ¹⁹⁰ *Code of 1851*, Sec. 827; *Revision of 1860*, Sec. 1395; *Code of 1873*, Sec. 1371; and *Code of 1897*, Sec. 2240.
- ¹⁹¹ *Code of 1851*, Secs. 820, 821, 823.
- ¹⁹² *Code of 1851*, Sec. 838.
- ¹⁹³ *Code of 1851*, Sec. 846.
- ¹⁹⁴ *Code of 1873*, Secs. 1344, 1361.
- ¹⁹⁵ *Code of 1873*, Sec. 1364.
- ¹⁹⁶ *Code of 1873*, Sec. 1366.
- ¹⁹⁷ *Code of 1873*, Sec. 1365.
- ¹⁹⁸ *Code of 1873*, Sec. 1377.
- ¹⁹⁹ *Code of 1873*, Sec. 1368.
- ²⁰⁰ *Code of 1897*, Secs. 2216, 2218, 2219, 2220, 2226, 2227, 2230, 2234, 2235, 2236, 2240, 2244, 2251; and *Report of the Code Commission*, 1896, p. 65, Sec. 15.
- ²⁰¹ See Aschrott and Preston-Thomas's *The English Poor-Law System*, p. 6.
- ²⁰² See above, pp. 3, 4.
- ²⁰³ See above, p. 51.
- ²⁰⁴ See note 58, above, and p. 65.
- ²⁰⁵ *Code of 1851*, Secs. 824, 827.
- ²⁰⁶ *Revision of 1860*, Secs. 1392, 1395.
- ²⁰⁷ *Code of 1873*, Secs. 1330-1382.
- ²⁰⁸ *Report of the Code Commission*, 1873, Title XI, Sec. 39.
- ²⁰⁹ *Report of the Code Commission*, 1873, Title XI, Sec. 32.
- ²¹⁰ *Code of 1873*, Sec. 1361.
- ²¹¹ *Code of 1897*, Sec. 2230; and *Report of the Code Commission*, 1896, pp. 64, 65, Title XII, Sec. 15.

CHAPTER IX

²¹² See Ashrott and Preston-Thomas's *The English Poor-Law System*, pp. 7, 15, 16.

²¹³ The first suggestion concerning a workhouse for the able-bodied is to be found in a pamphlet published in 1646, entitled *Stanley's Remedy*. An ordinance was passed in London in 1647 providing for a corporation to establish a workhouse. One was established at Blackfriars and another at Minories about 1655. Sir Matthew Hale advocated their establishment in 1683 and Thomas Firman in 1687. Under special act of Parliament one was established at Bristol in 1697, at Worcester in 1703, and at Plymouth and other places in 1707. The general introduction of institutions of this character was authorized by an act 9 George I, c. 7 of 1723. See Ashrott and Preston-Thomas's *The English Poor-Law System*, pp. 15, 16; and Gray's *A History of English Philanthropy*, pp. 72, 73.

²¹⁴ See above, p. 56.

²¹⁵ *Revision of 1860*, Sec. 1354.

²¹⁶ *Laws of Iowa*, 1858, Ch. 158, Sec. 81; and *Revision of 1860*, Sec. 1111.

²¹⁷ *Code of 1873*, Sec. 538.

²¹⁸ *Report of the Code Commission*, 1873, Title XI, Ch. I, Sec. 43.

²¹⁹ *Report of the Code Commission*, 1873, Title XI, Ch. I, Sec. 32.

²²⁰ The inconsistency is even more striking when one compares the last part of Sec. 538, giving the city council the authority "to provide for the distribution of out-door relief to the poor", and Sec. 1361, giving the supervisors the power to appoint in cities of the first or second class an overseer of the poor to attend to the outdoor relief. One can not but feel from the remarks of the Code Commission on the latter section that it expresses their real intent in the matter and that the former section was but a survival which escaped elimination by an oversight. See *Code of 1873*, Secs. 538, 1361; and *Report of the Code Commission*, 1873, Title XI, Ch. I, Sec. 32.

²²¹ *Laws of the Territory of Iowa*, 1841-1842, pp. 83-85.

²²² *Laws of the Territory of Iowa*, 1841-1842, pp. 83-85; and *Code of 1851*, Secs. 828-847.

²²³ *Laws of the Territory of Iowa*, 1841-1842, pp. 83 ff; and *Code of 1851*, Secs. 834-837.

²²⁴ *Code of 1873*, Sec. 1376.

²²⁵ *Code of 1873*, Sec. 1374.

²²⁶ *Code of 1897*, Secs. 2243-2246.

²²⁷ *Code of 1873*, Sec. 1376.

²²⁸ A striking example of this attitude is furnished in a letter to the writer by a steward of a "county home" of Iowa in reply to a questionnaire sent out for the purpose of gathering information concerning the poorhouses of Iowa. The writer of the letter wrote upon a letterhead which was graced with a cut which showed chiefly barns, sheds, and yards with the poorhouse itself partly hidden by some trees, and with an advertisement of "Barred Plymouth Rock chickens" and "standard bred poland-china hogs". Moreover, he said in his letter that during his administration this farm had built up a great reputation for its fine chickens and hogs. There was not a word as to the nature of the house for the inmates, or of the provisions for their care, of how happy they were there, or of whether the poorhouse was a place to which sick or friendless or old people were glad to come. There was nothing about the reputation of the poorhouse as a real "county home". See the *Proceedings of the Thirteenth Iowa State Conference of Charities and Correction*, 1911, p. 46.

²²⁹ *Laws of the Territory of Iowa*, 1841-1842, pp. 83-85.

²³⁰ *Code of 1851*, Secs. 820, 837, 838; and *Revision of 1860*, Sec. 1405.

²³¹ *Code of 1873*, Secs. 1375, 1377; and *Code of 1897*, Sec. 2244.

²³² *Laws of the Territory of Iowa*, 1841-1842, p. 85, Sec. 11.

²³³ *Code of 1851*, Sec. 840; *Revision of 1860*, Sec. 1408; *Code of 1873*, Sec. 1379; and *Code of 1897*, Sec. 2245.

²³⁴ *Laws of the Territory of Iowa*, 1841-1842, p. 84, Sec. 7.

²³⁵ *Code of 1851*, Sec. 839; and *Revision of 1860*, Sec. 1407.

²³⁶ *Code of 1873*, Sec. 1378.

²³⁷ *Report of the Code Commission*, 1896, pp. 65, 93.

²³⁸ *Laws of Iowa*, 1878, Ch. 166; and *Code of 1897*, Sec. 2249.

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²³⁹ *Laws of Iowa*, 1866, p. 83.

²⁴⁰ *Journal of the House of Representatives*, 1874, pp. 61, 67, 68, 107, 108, 120, 131, 132, 137, 272. No less than fifteen such petitions were presented to the legislature in 1874.

²⁴¹ *Laws of Iowa*, 1876, Ch. 94.

²⁴² Governor Gear in his first biennial message (January 13, 1880) said that on October 1, 1879, there were 26 girls and 44 boys over five years of age in the poorhouses in sixteen counties of the State.—Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. V, pp. 37-39.

Two years later Governor Gear reported that there were 85 children under five years of age, 54 between five and ten years, and 28 between ten and fifteen years of age, a total of 167, in Iowa poorhouses.—See Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. V, p. 124. See Vol. V, p. 340 for a statement by Governor Sherman.

In 1911 the writer found twenty-one children in thirteen "county homes". It should be added that most of these were less than two years old. See the *Proceedings of the Thirteenth Iowa State Conference of Charities and Correction*, 1911, p. 42.

²⁴³ For details concerning the care of dependent children see above, Chap. XI.

²⁴⁴ *Code of 1851*, Sec. 837; and *Revision of 1860*, Sec. 1405. One must remember that in the latter Code instead of the word "judge" one should read "board of supervisors".

²⁴⁵ See above, p. 7.

²⁴⁶ *Laws of Iowa*, 1868, Ch. 95, Sec. 2; *Code of 1873*, Sec. 1362; *Laws of Iowa*, 1878, Ch. 37; and *Code of 1897*, Sec. 2231. The code commission of 1896 had provided only for all Union soldiers, their widows and families, but the legislature made the law include former members of the navy also.—See the "Black Code", 1896, pp. 437-443, Sec. 16.

²⁴⁷ *Laws of the Territory of Iowa*, 1841-1842, p. 85, Sec. 13.

²⁴⁸ *Code of 1851*, Sec. 844; *Revision of 1860*, Sec. 1412; and *Code of 1873*, Sec. 1381.

²⁴⁹ *Code of 1897*, Sec. 2247.

²⁵⁰ *Report of the Visiting Committee to the Governor*, November 30, 1875, in the *Iowa Legislative Documents*, 1876, Vol. III, No. 21, pp. 16, 17, Appendix pp. 25-27. For the law creating the Visiting Committee see *Laws of Iowa*, 1872, Ch. 183.

²⁵¹ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. IV, p. 157; and *Iowa Documents*, 1876, Vol. III, No. 21, p. 8. Governor Carpenter in his first biennial message (January 23, 1874) stated that the original bill providing for a visiting committee for the insane asylums, passed on April 23, 1872, had "elicited a lively discussion", and that when finally passed into law it was with some reluctance that he had signed it. He added, "I believe, however, the report of the committee will vindicate the wisdom of the law."—Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. IV, p. 72.

²⁵² Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. V, p. 159. At this time, according to Governor Gear, there were 1304 persons either in poorhouses or outside of them who were receiving public relief in Iowa.

²⁵³ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. VI, p. 353.

²⁵⁴ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. VII, pp. 21-23, 38-40.

²⁵⁵ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. VII, pp. 145, 146.

²⁵⁶ Doubtless the report of the Healy Investigating Committee on State Institutions, appointed by the Senate two years before, giving the results of a rather searching investigation of the various State institutions and pointing out the economic wastes which were occurring under the separate boards of trustees, had much to do with the creation of this Board of Control. For this report, see *Journal of the Senate*, 1898, pp. 109-179.

²⁵⁷ *Laws of Iowa*, 1900, Ch. 144. A joint resolution for a commission of three to investigate poorhouses in which insane were kept had been proposed in the Senate in 1898. — *Journal of the Senate*, 1898, pp. 899, 900, 978. But when the Board of Control act was enacted a substitute resolution was passed giving this work to the new Board.

CHAPTER X

²⁵⁸ See above Chapter XI, p. 220, for the details.

²⁵⁹ *Laws of the Territory of Iowa*, 1839-1840, pp. 83, 84; and *Laws of the Territory of Iowa*, 1841-1842, pp. 58, 59, Sec. 6.

²⁶⁰ See above, Ch. VII, p. 140.

²⁶¹ *Laws of the Territory of Iowa*, 1839-1840, p. 83, Sec. 3.

²⁶² *Laws of the Territory of Iowa*, 1841-1842, pp. 58, 59.

²⁶³ *Code of 1851*, Secs. 825-827; *Revision of 1860*, Secs. 1393-1395; *Code of 1873*, Secs. 1369-1371; and *Code of 1897*, Secs. 2238-2240.

²⁶⁴ In the Territorial law of 1840 alone was provision made for the care of such persons without proceedings to have the county of legal settlement pay for the temporary relief. See *Laws of the Territory of Iowa*, 1839-1840, pp. 83, 84, Secs. 5, 6, 7; *Laws of the Territory of Iowa*, 1841-1842, p. 59, Secs. 7-10; *Code of 1851*, Secs. 814, 824; *Revision of 1860*, Secs. 1379, 1392; *Code of 1873*, Secs. 1354, 1357; and *Code of 1897*, Secs. 2225, 2229.

²⁶⁵ *Code of 1851*, Sec. 822; and *Revision of 1860*, Sec. 1390.

²⁶⁶ *Code of 1873*, Sec. 1367; and *Code of 1897*, Secs. 2230, 2234, 2236.

²⁶⁷ See above, pp. 175, 278-284.

²⁶⁸ *Laws of Iowa*, 1868, pp. 130, 131.

²⁶⁹ *Code of 1897*, Sec. 2231.

²⁷⁰ *Laws of Iowa*, 1864, p. 99. The details of this act and those amendatory thereto have been discussed in Chapter XIII.

²⁷¹ At least that was the case in 1911 when the writer made an investigation of the cost of poor relief in Iowa. See the writer's paper on *The County Homes of Iowa*, in the *Proceedings of the Thirteenth Iowa State Conference of Charities and Correction*, 1911, p. 44.

²⁷² *The Development of Public Charities and Correction in the State of Indiana*, 1910, p. 125.

CHAPTER XI

²⁷³ *Laws of Michigan Extended over the Territory of Wisconsin by the Organic Act*, pp. 94-96 (bound with the *Laws of First Legislative*

Session of the Territory of Wisconsin); and *Laws of the Territory of Iowa*, 1839-1840, Ch. 24, pp. 29-31.

²⁷⁴ *Code of 1851*, Ch. 49, and Sec. 788.

²⁷⁵ *Revision of 1860*, Ch. 58, Sec. 1420.

²⁷⁶ *Code of 1873*, Sees. 4721, 4722.

²⁷⁷ See the case of *State vs. Shoemaker*, 62 Iowa 343, cited by McClain in his *Code of 1888*, under Sec. 6113.

²⁷⁸ See pp. 187-189.

²⁷⁹ See Governor Stone's second biennial message, January 14, 1868, in Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. III, p. 104. The one at Cedar Falls was established, with five orphans, on September 28, 1865, in an old building built for a hotel.—See *Memorial in Relation to the Iowa Orphans' Home*, p. 35, in the *Iowa Legislative Documents*, 1868, Vol. II. The Davenport Home had been established earlier.

²⁸⁰ *Laws of Iowa*, 1866, p. 84.

²⁸¹ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. III, p. 104. The branch at Glenwood was opened in November, 1866, because the others were located so far from the western part of the State.—*Report of Iowa Soldiers Orphans' Home*, p. 6, in the *Iowa Legislative Documents*, 1868, Vol. II.

²⁸² *Laws of Iowa*, 1866, pp. 85, 86.

²⁸³ See reports in *Iowa Legislative Documents*, 1868, Vol. II; and Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. III, pp. 416, 417.

²⁸⁴ *Laws of Iowa*, 1868, Ch. 66, Sec. 7; and *Code of 1873*, Sec. 1634.

²⁸⁵ Governor Merrill's first biennial message, in Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. III, pp. 289-291. The rapid increase in the number of inmates in the institutions after the State assumed charge of them indicates a tendency to commit to an institution in the first burst of enthusiasm over a new measure children who had been cared for otherwise up to that time.

²⁸⁶ *Laws of Iowa*, 1874 (Private), pp. 70, 71.

²⁸⁷ *Laws of Iowa*, 1876, Ch. 94.

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²⁸⁸ *Journal of the House of Representatives*, 1874, pp. 371, 506, 532, 555, 556.

²⁸⁹ He says that while on November 1, 1873, there were 508 children in the three Homes, on November 1, 1876, there were but 298.—Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. IV, pp. 158, 159.

²⁹⁰ *Laws of Iowa*, 1876, Ch. 94. See Governor Drake's biennial message, January 11, 1898, in Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. VII, p. 138.

²⁹¹ *Iowa Legislative Documents*, 1872, Vol. II, No. 19, p. 6.

²⁹² The fluctuations in the number of soldiers' orphans may be seen from the following table:

DATE	CEDAR FALLS	DAVEN- PORT	GLEN- WOOD	TOTAL SOLDIERS AND INDIGENT ORPHANS	SOLDIERS' ORPHANS	COUNTY ORPHANS
1866	175	349	8	532		
1867	280	541	27	848		
1869	300	405	68	773		
1871	288	310	120	718		
1873	256	154	98	508		
1875	189	109		298		
1877		139		180		41
1879		92		130		38
1881		76		169		93
1883		68		218		150
1885		47		280		233
1887		42		293		251
1889		88		370		282
1891				300	198	202
1893				413	213	200
1895				458	248	210
1897				487	297	190
1899				445	260	185
1901				439	265	174
1903				491	271	220
1905				444	195	249
1906				491	195	296
1908				501	138	363
1910				554	89	465

²⁹³ The number of pension claims, pensioners, and disbursements, 1891-1905, are shown in the following table:

FISCAL YEAR ENDING JUNE 30	TOTAL NO. OF ORIGINAL CLAIMS ALLOWED	NO. OF PENSIONERS ON THE ROLL			PAID AS PENSIONS
		INVALIDS	WIDOWS, ETC.	TOTAL	
1891.....	156,486	536,821	139,339	676,160	\$117,312,690.50
1892.....	224,047	703,242	172,826	876,068	139,394,147.11
1893.....	121,630	759,706	206,306	966,012	156,906,637.94
1894.....	39,085	754,382	215,162	909,544	139,986,726.17
1895.....	39,185	750,951	219,567	970,524	139,812,294.30
1896.....	40,374	747,967	222,557	970,678	138,220,704.46
1897.....	50,101	746,829	229,185	976,014	139,949,717.35
1898.....	52,648	760,853	232,861	993,714	144,651,879.80
1899.....	37,077	753,451	238,068	991,519	138,355,052.95
1900.....	40,645	751,864	241,674	993,529	138,462,130.65
1901.....	44,868	747,999	249,736	997,735	138,531,483.84
1902.....	40,173	738,809	260,637	999,446	137,504,267.99
1903.....	40,136	728,732	267,813	996,545	137,759,653.71
1904.....	44,296	720,315	274,447	994,762	141,093,571.49
1905.....	50,027	717,158	281,283	998,441	141,142,861.33

— *The World Almanac*, 1912, p. 174.

²⁹⁴ *Laws of Iowa*, 1898, Ch. 118.

²⁹⁵ *First Biennial Report of the Board of Control of State Institutions*, 1899, p. 106.

²⁹⁶ *Laws of Iowa*, 1906, Ch. 126.

²⁹⁷ *Laws of Iowa*, 1906, Ch. 127.

²⁹⁸ *Laws of Iowa*, 1906, Ch. 181.

²⁹⁹ *Laws of Iowa*, 1911, Ch. 133.

³⁰⁰ *Journal of the House of Representatives*, 1874, pp. 61, 67, 68, 80, 107, 108, 120, 131, 132, 137, 272.

³⁰¹ There were at least thirteen presented. — *Journal of the Senate*, 1874, pp. 20, 42, 58, 72, 101, 125, 132, 149, 206, 207.

³⁰² *Shambaugh's Messages and Proclamations of the Governors of Iowa*, Vol. IV, p. 59.

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³⁰³ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. IV, pp. 158, 159.

³⁰⁴ *Laws of Iowa*, 1876, Ch. 94.

³⁰⁵ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. V, pp. 37, 38.

³⁰⁶ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. V, pp. 39, 40.

³⁰⁷ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. V, p. 124.

³⁰⁸ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. V, p. 286.

³⁰⁹ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. V, p. 340.

³¹⁰ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. VII, p. 138.

³¹¹ *First Biennial Report of the Board of Control of State Institutions*, 1899, pp. 106, 116.

³¹² *Second Biennial Report of the Board of Control of State Institutions*, 1901, pp. 68, 69.

³¹³ *Laws of Iowa*, 1904, Ch. 106, Sec. 2; and *Supplement to the Code*, 1907, Sec. 2692.

³¹⁴ *Seventh Biennial Report of the Board of Control of State Institutions*, 1910, pp. 39, 40. See also the *Eighth Biennial Report*, 1912, p. 40.

³¹⁵ *Laws of Iowa*, 1913, Ch. 229. By reference to the table given in note 292, the reason will be apparent.

³¹⁶ *Governor's Message*, p. 23, in *Iowa Legislative Documents*, 1906, Vol. I.

³¹⁷ *Proceedings of the Thirteenth Iowa State Conference of Charities and Correction*, 1911, p. 42; and *Eighth Biennial Report of the Board of Control of State Institutions*, 1912, p. 558. The latter gives the number under fifteen years of age as twenty-seven in eleven counties, June 30, 1912.

³¹⁸ *Laws of Iowa*, 1847-1848, p. 95.

- ³¹⁹ *Laws of Iowa*, 1872, Ch. 159.
- ³²⁰ *Laws of Iowa*, 1878, Ch. 176.
- ³²¹ *Laws of Iowa*, 1902, Ch. 133.
- ³²² *Code of 1851*, Sec. 839.
- ³²³ *Code of 1851*, Sec. 1519.
- ³²⁴ *Revision of 1860*, Secs. 1407, 2576.
- ³²⁵ *Code of 1873*, Secs. 1378, 2283; and *Code of 1897*, Sec. 3234.
- ³²⁶ *Laws of Iowa*, 1868, Ch. 66, Sec. 7; and *Code of 1873*, Sec. 1634.
- ³²⁷ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. VI, pp. 314, 315.
- ³²⁸ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. VI, pp. 368, 369.
- ³²⁹ *Laws of Iowa*, 1906, Ch. 181, Sec. 2; and *Supplement to the Code*, 1907, Sec. 2692-b.
- ³³⁰ *Laws of Iowa*, 1904, Ch. 11.
- ³³¹ *Laws of Iowa*, 1909, Ch. 14.
- ³³² *Laws of Iowa*, 1909, Ch. 13.
- ³³³ *Laws of Iowa*, 1913, Ch. 271.
- ³³⁴ *Laws of Iowa*, 1913, Ch. 31.

CHAPTER XII

- ³³⁵ *Laws of Iowa*, 1860, Ch. 161, in *Revision of 1860*. See Sec. 1491.
- ³³⁶ *Revision of 1860*, Sec. 1442.
- ³³⁷ *Laws of Iowa*, 1866, Ch. 132.
- ³³⁸ *Iowa Legislative Documents*, 1874, Vol. II, No. 18-a, pp. 17, 18.
- ³³⁹ *Iowa Legislative Documents*, 1876, Vol. III, No. 21, p. 17.
- ³⁴⁰ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. IV, p. 159.
- ³⁴¹ *Laws of Iowa*, 1876, Ch. 152.

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³⁴² *Laws of Iowa*, 1880, Ch. 164; and Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. V, p. 127.

³⁴³ *Laws of Iowa*, 1882, Ch. 40.

³⁴⁴ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. VII, p. 35.

³⁴⁵ *Code of 1897*, Sec. 2739.

³⁴⁶ *First Biennial Report of the Board of Control of State Institutions*, 1899, p. 107.

³⁴⁷ *Laws of Iowa*, 1902, Ch. 118.

³⁴⁸ *Laws of Iowa*, 1909, Ch. 173.

³⁴⁹ *Laws of Iowa*, 1911, Ch. 129. This law, as far as it affected criminals, was declared unconstitutional by the United States District Court for the Southern District of Iowa in June, 1914. — *The Register and Leader* (Des Moines), June 25, 1914.

³⁵⁰ *Laws of Iowa*, 1913, House Joint Resolution No. 16.

³⁵¹ *Laws of the Territory of Iowa*, 1838-1839, pp. 275, 276.

³⁵² *Laws of the Territory of Iowa*, 1840-1841, Ch. 61, pp. 49-52.

³⁵³ *Code of 1851*, Ch. 50, pp. 134-136; *Revision of 1860*, Sec. 1442. The law of March 23, 1858 (*Laws of Iowa*, 1858, Ch. 141), put the matter in the hands of the probate court. See the *Revision of 1860*, Sec. 1449. In the *Code of 1873*, Secs. 1395-1445, the county insanity commissioners had appeared.

³⁵⁴ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. I, p. 453.

³⁵⁵ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, pp. 87-91. Governor Grimes said that the General Assembly four years before had voted to devote the proceeds of the saline lands of the State to the establishment of an insane asylum.

³⁵⁶ Parish's *A Study in Administration*, pp. 243, 245, 247.

³⁵⁷ *Laws of Iowa*, 1858, Ch. 141, Sec. 60.

³⁵⁸ *Laws of Iowa*, 1858, Ch. 141, Secs. 26, 30, 60. The codifiers of 1860 were uncertain as to whether these provisions were still the law of the State or not, since this act was probably repealed by the Eighth

General Assembly in Ch. 161. See note to the *Revision of 1860*, p. 235.

³⁵⁹ *Revision of 1860*, Secs 1442, 4485.

³⁶⁰ *Revision of 1860*, Secs. 1479, 1488, 1495.

³⁶¹ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 287.

³⁶² Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 286.

³⁶³ *Laws of Iowa*, 1868, Ch. 179.

³⁶⁴ Parish's *A Study in Administration*, p. 247; and *Fourth Biennial Report of the Superintendent of the Iowa Hospital for the Insane*, pp. 34-36, in the *Iowa Legislative Documents*, 1868, Vol. II.

³⁶⁵ *Laws of Iowa*, 1870, Ch. 109, p. 121.

³⁶⁶ *Code of 1873*, Secs. 1403, 1426.

³⁶⁷ *Iowa Legislative Documents*, 1872, No. 15, p. 12.

³⁶⁸ *Report of the State Visiting Committee for the Iowa Hospitals for Insane made to the Governor*, November 30, 1875, in the *Iowa Legislative Documents*, 1876, Vol. III, No. 21, pp. 15, 16, 17.

³⁶⁹ *Iowa Legislative Documents*, 1880, Vol. III, No. 26, pp. 4, 5.

³⁷⁰ *First Biennial Report of the Board of Control of State Institutions*, 1899, pp. 122-128.

³⁷¹ *Iowa Legislative Documents*, 1880, Vol. III, No. 26, pp. 4, 5. From the report of the Visiting Committee it would appear that the Board of Control was quite too charitable in its judgment of the county authorities twenty years before. They do not appear from these figures quite as virtuous as the Board would make them appear.

³⁷² Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. VI, p. 112; and *Report of the Investigation Relative to the Methods of Business Records, Accounts and Vouchers of State Institutions*, by J. W. Rich to the Governor of Iowa, Des Moines, 1890, printed by order of the Governor.

³⁷³ *Code of 1897*, Sec. 2271.

³⁷⁴ *Iowa Legislative Documents*, 1876, Vol. III, No. 21, pp. 16, 17.

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³⁷⁵ *Second Biennial Report of the Board of Control of State Institutions*, 1901, p. 68.

³⁷⁶ *First Biennial Report of the Board of Control of State Institutions*, 1899, pp. 125-128.

The Board of Control in 1903 reported after noting the number of insane present in county institutions that "in few, if any, of the county and private institutions are the inmates so well cared for as they would be if in the state hospitals. This fact should be sufficient to prevent the construction of new county institutions for the insane and is a strong argument in favor of closing those already in existence."—*Third Biennial Report of the Board of Control of State Institutions*, 1903, p. 28. The following figures will indicate the extent to which the practice of sending incurable insane to county and private institutions had gone:

NUMBER OF INSANE IN COUNTY INSTITUTIONS

June 30, 1899	991
June 30, 1901	971
June 30, 1903	904

NUMBER OF COUNTY INSTITUTIONS FOR INSANE

1900	52
1901	54
1902	55
1903	52

NUMBER OF PRIVATE INSTITUTIONS CARING FOR INSANE

June 30, 1901	4
June 30, 1903	4

NUMBER IN PRIVATE INSTITUTIONS

June 30, 1899	384
June 30, 1901	433
June 30, 1903	474

In 1900-1901 there were fifty-two county institutions in which insane were kept and four private institutions. In twelve additional counties there were kept people whom the stewards regarded as insane but who had never been so adjudged. That remained practically the situation in 1912. There were in these institutions the following numbers of insane:

June 30, 1899	1375
June 30, 1900	1393
June 30, 1901	1404
June 30, 1911	1551

See *Second Biennial Report of the Board of Control of State Institutions*, 1901, p. 56; and *Eighth Biennial Report of the Board of Control of State Institutions*, 1912, pp. 546-564.

³⁷⁷ *Laws of Iowa*, 1909, Ch. 26, Sec. 16.

³⁷⁸ One wonders whether the law providing for the inspection and regulation of county poorhouses containing insane persons by the Board of Control has not had much to do in leading counties to segregate the insane from the other paupers so that the Board of Control's inspection and regulation would apply only to the part of the institutions devoted to the insane rather than to the entire poorhouse.

³⁷⁹ *Iowa Legislative Documents*, 1876, Vol. III, No. 21, pp. 21, 22.

³⁸⁰ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. IV, p. 159.

³⁸¹ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. V, pp. 47, 48.

³⁸² Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. V, p. 132.

³⁸³ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. V, p. 288.

³⁸⁴ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. VII, pp. 30, 31.

³⁸⁵ *Code of 1897*, Sec. 2308.

³⁸⁶ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. VII, p. 145.

³⁸⁷ *Laws of Iowa*, 1900, Ch. 144; *Supplement to the Code*, 1907, Sec. 2727-a58-66; *Second Biennial Report of the Board of Control of State Institutions*, 1901, pp. 55, 56; and *Third Biennial Report of the Board of Control of State Institutions*, 1903, p. 28.

³⁸⁸ *Laws of Iowa*, 1913, Ch. 235.

³⁸⁹ *Laws of Iowa*, 1886, Ch. 47; and *Code of 1897*, Sec. 2283.

³⁹⁰ *Laws of Iowa*, 1907, Ch. 118.

³⁹¹ *Laws of Iowa*, 1892, Ch. 24.

³⁹² *Laws of Iowa*, 1904, Ch. 78; *Supplement to the Code*, 1907, Sec. 2308-a; and *Laws of Iowa*, 1913, Ch. 183. In New York this is cared for by the Department of State, Alien and Indian Poor of the State Board of Charities. — See *Forty-fourth Annual Report of the State Board of Charities of the State of New York*, 1911, Vol. I, pp. 154-156.

³⁹³ *Laws of Iowa*, 1906, Ch. 92, Sec. 1.

³⁹⁴ *Laws of Iowa*, 1911, Ch. 98.

³⁹⁵ *Code of 1851*, Ch. 73; *Laws of Iowa*, 1848-1849, Ch. 121, p. 148.

³⁹⁶ *Laws of Iowa*, 1854-1855, Ch. 87.

³⁹⁷ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, pp. 338, 339. Besides this institution there were at this time in existence in the State of Iowa only the Asylum for the Blind and the Insane Asylum.

³⁹⁸ *Journal of the House of Representatives*, 1868, p. 155.

³⁹⁹ *Laws of Iowa*, 1868, Ch. 107.

⁴⁰⁰ *Laws of Iowa*, 1868, Ch. 106.

⁴⁰¹ *Code of 1897*, Sec. 2739.

⁴⁰² *Laws of Iowa*, 1848-1849, Ch. 121; *Code of 1851*, Ch. 73.

⁴⁰³ *Laws of Iowa*, 1852-1853, p. 47. The name was changed to the "Institution for the Education of the Blind" by an act approved on January 22, 1855. — *Laws of Iowa*, 1854-1855, p. 81. It was again changed to the "Iowa College for the Blind" by an act approved on April 6, 1872. — *Laws of Iowa*, 1872 (private), p. 45.

⁴⁰⁴ *Laws of Iowa*, 1854-1855, Ch. 56.

⁴⁰⁵ *Laws of Iowa*, 1866, Ch. 43, Sec. 7.

⁴⁰⁶ *House Journal*, 1868, pp. 239, 321.

⁴⁰⁷ Shambaugh's *Messages and Proclamation of the Governors of Iowa*, Vol. VI, p. 145.

⁴⁰⁸ *Laws of Iowa*, 1890, Ch. 53; and *Laws of Iowa*, 1900, Ch. 103, Sec. 1.

- ⁴⁰⁹ *Code of 1851*, Ch. 73; and *Code of 1897*, Sec. 2739.
- ⁴¹⁰ *Laws of Iowa*, 1911, Ch. 141.
- ⁴¹¹ *Laws of Michigan in force in the Territory of Wisconsin*, 1838, pp. 208-210. This law was repealed on August 30, 1840.
- ⁴¹² *Code of 1873*, Secs. 2272, 2273; and *Code of 1897*, Sec. 3219.
- ⁴¹³ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. IV, p. 159.
- ⁴¹⁴ *Laws of Iowa*, 1902, Ch. 93, Secs. 1, 2, 5. *Third Biennial Report of the Board of Control of State Institutions*, 1903, pp. 34-36.
- ⁴¹⁵ *Laws of Iowa*, 1904, Ch. 80.
- ⁴¹⁶ *Laws of Iowa*, 1904, Ch. 80, Sec. 10.
- ⁴¹⁷ *Laws of Iowa*, 1906, Ch. 94. The supervisors each year were required to estimate the amount necessary for this purpose and levy a special tax therefor. This fund was not to be used for any other purpose. If, however, no special tax was levied for this purpose, the amount was to be paid out of the general county fund.
- ⁴¹⁸ *Laws of Iowa*, 1913, Ch. 184.
- ⁴¹⁹ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. VII, p. 32.
- ⁴²⁰ *First Biennial Report of the Board of Control of State Institutions*, 1899, p. 119.
- ⁴²¹ *Third Biennial Report of the Board of Control of State Institutions*, 1903, p. 40.
- ⁴²² *Biennial Message of B. F. Carroll*, January, 1911, p. 26, in the *Iowa Legislative Documents*, 1911, Vol. I.
- ⁴²³ *Laws of Iowa*, 1911, Ch. 129.
- ⁴²⁴ *Laws of Iowa*, 1913, Ch. 236.

CHAPTER XIII

- ⁴²⁵ See above, p. 175.
- ⁴²⁶ *Laws of Iowa*, 1888, Ch. 105; *Laws of Iowa*, 1892, Ch. 69, Sec. 1; *Laws of Iowa*, 1904, Ch. 17, Sec. 2; and *Laws of Iowa*, 1909, Chs.

30, 31. These acts are simply examples of a series of acts passed at various times. For instance, an act was passed on April 7, 1884, which first provided for the burial of soldiers, sailors and marines of the United States who served during the War, and limited the funeral expenses to thirty-five dollars.—*Laws of Iowa*, 1884, Ch. 178. The *Code of 1897*, Sec. 433, provided that burial of these classes was not to be in that part of the cemetery used exclusively for paupers.

⁴²⁷ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. V, p. 375.

⁴²⁸ *Laws of Iowa*, 1886, Ch. 58.

⁴²⁹ *Laws of Iowa*, 1892, Ch. 95. The *Code of 1897*, Sec. 2606, added the limitation that their wives and widows were to be admitted only if they had become the wives of soldiers, sailors, or marines before 1885. In 1906 the Thirty-first General Assembly amended this provision so that a widow of an honorably discharged soldier, sailor, or marine who had become a widow before 1885, but who subsequent to that date had married another could be admitted.—*Laws of Iowa*, 1906, Ch. 119.

⁴³⁰ *Laws of Iowa*, 1900, Ch. 92.

⁴³¹ *Fourth Biennial Report of the Board of Control of State Institutions*, 1905, pp. 52, 53.

⁴³² *Laws of Iowa*, 1907, Ch. 145. By an act approved on April 6, 1892, the county from which a soldier had been sent was made liable for his support in the Hospital for the Insane should he become insane.—*Laws of Iowa*, 1892, Ch. 24.

⁴³³ *Laws of Iowa*, 1909, Ch. 164.

⁴³⁴ *Laws of Iowa*, 1909, Ch. 166.

⁴³⁵ *Laws of Iowa*, 1913, Ch. 16.

⁴³⁶ *Laws of Iowa*, 1913, Ch. 220.

CHAPTER XIV

⁴³⁷ See the *Proceedings of the Thirteenth Iowa State Conference of Charities and Correction*, 1911, p. 43. In forty-five out of eighty-seven county homes reported to the writer in 1911, the doctor visited

only when called; in twenty-four he visited once a week unless called oftener; in four of them, semi-weekly; in one, every two weeks; in three, monthly; in one, quarterly; and in one, "frequently".

⁴³⁸ *Laws of Iowa*, 1909, Ch. 26. This act was approved on April 6.

⁴³⁹ *Laws of Iowa*, 1906, Ch. 120.

⁴⁴⁰ *Laws of Iowa*, 1913, Ch. 40.

⁴⁴¹ *Laws of Iowa*, 1913, Ch. 238.

CHAPTER XV

⁴⁴² *Journal of the House of Representatives*, 1838, pp. 198, 201, 207, 216.

⁴⁴³ *Laws of the Territory of Iowa*, 1838-1839, pp. 455, 456.

⁴⁴⁴ *Code of 1851*, Ch. 208, p. 462.

⁴⁴⁵ *Revision of 1860*, Ch. 185; and *Code of 1873*, Secs. 4130-4144.

⁴⁴⁶ *Laws of Iowa*, 1876, Ch. 69; McClain's *Code of 1888*, Secs. 5527, 5528.

⁴⁴⁷ *Laws of Iowa*, 1890, Ch. 43, Sec. 2.

CHAPTER XVI

⁴⁴⁸ *Iowa Legislative Documents*, 1874, Vol. II, No. 31.

⁴⁴⁹ *Laws of Iowa*, 1874 (Private), pp. 11, 12. This bill was preceded in the Senate by Senate File No. 123, proposing to loan these settlers money. — See *Journal of the Senate*, 1874, pp. 124, 141, 162, 167.

⁴⁵⁰ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. VI, p. 419.

CHAPTER XVII

⁴⁵¹ *Laws of Iowa*, 1872, Ch. 183.

⁴⁵² Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. IV, pp. 72-74. The Governor in this message criticised some official who objected to the appointment of this committee. Doubtless he refers to the report of Dr. Mark Ranney, the Superintendent of the Mt. Pleasant Hospital, who in his report had criticised

the law. Governor Carpenter in his message accused him of using coarse epithets about the legislature and the committee.

In Dr. Ranney's report, however, there are to be found no coarse epithets applied to either of these authorities, but a straightforward argument against the provisions of the act which took out of the hands of the superintendent the right to limit letter-writing of the inmates to their friends and lessened the control of the superintendent over the patients in the hospital. — See *Iowa Legislative Documents*, 1874, Vol. II, No. 17-a, especially pp. 27-31.

⁴⁵³ *Journal of the House of Representatives*, 1874, Index, H. F., No. 219.

⁴⁵⁴ *Iowa Legislative Documents*, 1876, Vol. II, No. 21, p. 8.

⁴⁵⁵ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. IV, p. 157.

⁴⁵⁶ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. V, pp. 18, 19.

⁴⁵⁷ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. V, pp. 63-66, 68, 69.

⁴⁵⁸ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. V, p. 159.

⁴⁵⁹ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. VI, pp. 303, 304.

⁴⁶⁰ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. VI, p. 353.

⁴⁶¹ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. VII, pp. 38-40.

⁴⁶² Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. VII, pp. 21-23.

⁴⁶³ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. VII, pp. 145, 146, 153, 154. One wonders whether these reactionary views of Republican Governors just following a Democratic regime, were rooted in scientific or political considerations.

⁴⁶⁴ *Journal of the Senate*, 1898, pp. 109-179. The committee said:
 "If we thought the legislature competent to remedy the defects, abuses, and evils presented in our report, by enactments, applicable

to each institution, there would be much merit in suggesting specific changes. Entertaining the opinion, however, that the major part of our criticisms refers to abuses inhering in the trustee system, a thorough measure of reform is the only remedy. We attempted with some care to prepare a list of proposed statutory amendments, but on reflection it was ascertained that the greater number of such amendments can properly form a part of a measure creating a central or supervisory board. Many other of such amendments will not be required if such board is established. The disease is organic and too deep seated for the use of palliatives.

“Much of the discussion regarding the merits of state or county care of the insane will be unnecessary under a more economical management which will reduce the per capita allowance for support purposes. The failure of the state to show a reduction in the cost of support of the inmates, though it is evident that such reduction should be had in the last seven years, may be taken as one reason why many counties are building asylums to house their insane. Thoroughly convince the people and members of boards of supervisors that the per capita allowance for insane is not greater than is required and this question of county care will solve itself, for all must grant that the state hospital is the proper place to either cure or care for the insane.” — *Journal of the Senate*, 1898, pp. 171, 173.

Relative to the statements of the Governors that special boards of trustees produced experts on the work of the institutions, the committee said:

“As a general proposition, it must be said that a great number of these trustees do not display the familiarity with the institution, or knowledge of the manner in which its business is conducted, to enable them to intelligently participate in a careful or economical management thereof. As our report indicates, many of the trustees betrayed in their examination before the committee a want of that information respecting the institution which might be supposed would be known to any citizen. There are some exceptions to this rule. The committee met two-thirds of all the trustees. Less than one-third of this number gave the required time and attention, or evinced the possession of information sufficient to give valuable counsel, to say nothing of actively participating in, or directing a business involving annually the expenditure of hundreds of thousands of dollars. As a body, the

trustees and regents are men of intelligence and integrity, who have been successful in their several lines of business. A man may be a success in his own business, yet this very fact and the multiplicity of his private affairs prevents him as trustee from giving the necessary time to the performance of the state's business. Through negligence and an indisposition to study, or to familiarize themselves with the government of the institution, they have ceased, in many cases, to be factors in the management. The superintendents or subordinates do the business that the law expects and requires to be done by the trustees. Iowa is undoubtedly receiving the judgment and experience of superintendents and other employes in the management of its affairs rather than the judgment and experience of the trustees, who are charged with the execution of the trust. The selection of a citizen living on the eastern border of the state as a trustee of an institution located on the western border is often had. Such selection does not tend to promote the public service." — See *Journal of the Senate*, 1898, p. 175.

⁴⁶⁵ *Journal of the Senate*, 1898, pp. 899, 900.

⁴⁶⁶ *Journal of the Senate*, 1898, pp. 923, 978, 979.

⁴⁶⁷ *Laws of 1898*, pp. 62-76. See also reprint of the act in *First Biennial Report of the Board of Control of State Institutions*, 1899, pp. 1-17.

⁴⁶⁸ See above, pp. 251-254.

⁴⁶⁹ *First Biennial Report of the Board of Control of State Institutions*, 1899, pp. 123, 126.

⁴⁷⁰ *Laws of Iowa*, 1900, Ch. 144.

⁴⁷¹ *Laws of Iowa*, 1902, Ch. 133.

⁴⁷² *Laws of Iowa*, 1902, Ch. 93, Sec. 1. The next General Assembly further strengthened its control over this institution. — *Laws of Iowa*, 1904, Ch. 80.

⁴⁷³ *Laws of Iowa*, 1904, Ch. 11, Sec. 14.

⁴⁷⁴ *Laws of Iowa*, 1906, Ch. 181, Sec. 1

⁴⁷⁵ *Laws of Iowa*, 1906, Ch. 92, Sec. 1.

⁴⁷⁶ *Laws of Iowa*, 1909, Ch. 180, act approved on April 8, 1909.

⁴⁷⁷ *Biennial Message of B. F. Carroll*, 1911, pp. 29-31, in the *Iowa Legislative Documents*, 1911, Vol. I.

⁴⁷⁸ *Laws of Iowa*, 1911, Ch. 141. This act was approved on April 6th.

⁴⁷⁹ *Laws of Iowa*, 1913, Ch. 235.

⁴⁸⁰ *Laws of Iowa*, 1913, Ch. 236.

⁴⁸¹ *Laws of Iowa*, 1913, Chs. 220, 232.

⁴⁸² *Second Biennial Report of the Board of Control of State Institutions*, 1901, p. 56.

CHAPTER XVIII

⁴⁸³ *Eighth Biennial Report of the Board of Control of State Institutions*, 1912, p. 556.

⁴⁸⁴ *Eighth Biennial Report of the Board of Control of State Institutions*, 1912, pp. 556-558.

⁴⁸⁵ *Eighth Biennial Report of the Board of Control of State Institutions*, 1912, pp. 558, 559.

⁴⁸⁶ *Eighth Biennial Report of the Board of Control of State Institutions*, 1912, p. 554.

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